

COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION
"Creating Community Through People, Parks and Programs"



Tim Gallagher, Director

June 29, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE A CONCESSION AGREEMENT WITH
WHEEL FUN RENTALS
FOR THE OPERATION OF A FOOD, BOAT AND
NON-MOTORIZED CYCLE CONCESSION
AT SANTA FE DAM RECREATION AREA
(First District - 3 Vote Matter)**

IT IS RECOMMENDED THAT YOUR BOARD:

- 1 Find that approval of the Concession Agreement is exempt under the California Environmental Quality Act (CEQA).
2. Approve and instruct the Chairman to sign the attached Concession Agreement between the County and Wheel Fun Rentals for the operation of the Food, Boat and Non-Motorized Cycle concession at Santa Fe Dam Recreation Area for a term of five (5) years and four (4) months.

PURPOSE/JUSTIFICATION OF THE RECOMMENDED ACTION

The recommended action would approve a five year, four month Concession Agreement with Wheel Fun Rentals, effective upon approval by your Board. The food, boat and bait concession at Santa Fe Dam Recreation Area (Santa Fe Dam) has been operated under a Concession Agreement since August 1983. The current concessionaire, now operating the concession on a month-to-month basis, elected not to submit a proposal for a new concession agreement.

Santa Fe Dam is a primary regional recreational facility for residents of the San Gabriel Valley and annually attracts half a million visitors. Current services/amenities at Santa Fe Dam include a swim beach and children's swim area, trails and a nature center, fishing, picnic areas, a snack bar, and watercraft rentals. Under the new Concession Agreement, these visitors will enjoy an even broader range of recreational activities with the addition of non-motorized cycle rentals. The other services of the concessionaire will enhance the visitor's experience by offering an activity that can be enjoyed by entire families.

Implementation of Strategic Plan Goals

The proposed Concession Agreement will further the Board-approved County Strategic Plan Goal 1, Service Excellence, by providing a broader range of recreational activities to the public at Santa Fe Dam. It will also further Goal 4, Fiscal Responsibility by increasing revenues with its expanded range of services.

FISCAL IMPACT/FINANCING

Pursuant to the terms of the Concession Agreement, the concessionaire shall pay the County 15 percent of its gross receipts or \$30,000 a year, whichever is greater. The previous concessionaire paid the greater of 11 percent of its gross receipts or \$6,000 annually, whichever is greater. Based upon actual receipts over the past three years, the new agreement is expected to result in additional revenue of at least \$14,000 annually to the Department.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County of Los Angeles is authorized by Government Code Section 25907, to lease recreation lands for concessions and services that are consistent with public park and recreation purposes. A Concession Agreement for the provision of food services, non-motorized boat and cycle rentals, and the sale of bait, tackle and other recreation-related items at Santa Fe Dam is consistent with those purposes.

The term of the Concession Agreement for Food, Boat and non-motorized Cycle rental services is for five years and four months. The additional four months will allow the new agreement to expire after the end of the busy summer season and minimize impact on the public of a potential transition during the prime business season.

The County reserves the right to terminate this Concession Agreement, in whole or in part, upon transfer of title of the facility to another public agency unless that agency accepts assignment of this Concession Agreement. In addition, the County may terminate all or portions of this Concession Agreement due to park closure, improper consideration, non adherence to County Lobbyist Ordinance, and concessionaire's failure to comply with the County's Child Support Program. The Concession Agreement

also addresses the County's GAIN/GROW Program, Federal Earned Income Credit, and the County's Safely Surrendered Baby Law, and Quality Assurance Program.

County Counsel has approved the Concession Agreement as to form, and the United States Army Corps of Engineers has also reviewed and approved the Concession Agreement. Additionally, Wheel Fun Rentals has executed the attached Concession Agreement and will provide the required insurance policy naming the County of Los Angeles as an additional insured.

ENVIROMENTAL DOCUMENTATION

The approval of the Concession Agreement for the operation of a Food, Boat and Non-Motorized Cycle Concession at Santa Fe Dam Recreation is exempt under the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) under Section 15323 and Class 23 of the Environmental Document Reporting Procedures and Guidelines, adopted by your Board on November 17, 1987, because this action is consistent with the normal operations of the existing facility for public gatherings for which it was designed and where there is a history of the facility being used for the same or similar kind of purpose. A similar activity has been occurring for a period of at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility.

CONTRACTING PROCESS

On November 18, 2003, the Department commenced a solicitation to select a food, boat and bait concessionaire for Santa Fe Dam Recreation Area. The Department sent seventy-seven (77) invitation letters to potential proposers who had previously contacted the Department to express interest in conducting Food, Boat and Bait services on County facilities. Notice of the solicitation was also posted on the County's "Doing Business with Us" web site and the Department's web site. The invitations included bilingual instructions on how to contact the Department regarding the solicitation. Request for Proposal (RFP) Packages were available to proposers on November 20, 2003, and a conference was held on December 4, 2003, at Santa Fe Dam Recreation Area and attended by five (5) potential proposers. Two (2) proposals were received on January 5, 2004, and both met the minimum requirements as specified in the RFP package.

A three member evaluation panel, comprised of a professor of hospitality management, a golf course manager, and a concession contract manager from the City of Los Angeles Department of Recreation and Parks, conducted the proposal evaluations. The panelists evaluated each proposal based on criteria identified in the RFP, which included the proposer's experience and financial stability, proposed rent to the County, and proposed range of recreational services. Proposers were encouraged to suggest

additional services and both of the proposals included non-motorized cycle rentals as a new activity. The evaluation panel interviewed both proposers and completed their evaluations on February 26, 2004. Based on these evaluations, the proposal submitted by Wheel Fun Rentals received the highest ranking. The concessionaire was selected without regard to gender, race, creed or color.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

In addition to providing the food, boat and bait activities that have historically been provided at Santa Fe Dam, the proposed concessionaire will also offer non-motorized cycle rentals.

CONCLUSION

A certified copy of the action taken by your Board and a fully-executed copy of the attached Concession Agreement should be mailed to Wheel Fun Rentals, 4526 Telephone Road #202, Ventura, California, 93003. In addition, it is requested that one (1) conformed copy be sent to the Department, and one (1) conformed copy sent to the Treasurer and Tax Collector.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tim Gallagher', with a long horizontal flourish extending to the right.

Tim Gallagher
Director

TG:ds



CONCESSION AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

WHEEL FUN RENTALS

FOR

Operation and Maintenance of the
Santa Fe Dam Food, Boat, & Non-Motorized Cycle
Concession

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**CONCESSION AGREEMENT FOR THE FOOD, BOAT & NON-MOTORIZED CYCLE
CONCESSION AT SANTA FE DAM RECREATION AREA**

THIS CONCESSION AGREEMENT, made and entered into this _____ day
of _____, 2004,

BY AND BETWEEN

COUNTY OF LOS ANGELES, a
body corporate and politic,
hereinafter referred to as
"County",

AND

WHEEL FUN RENTALS
hereinafter referred to as
"Contractor",

RECITALS

WHEREAS, the Board of Supervisors is authorized by the provision of Government Code Section 25907 to contract for concessions and services that are consistent with public park and recreation services within Santa Fe Dam Recreation Area pursuant to the provisions of the Department of the Army License for Park and Recreational Purposes Santa Fe Dam Flood control Basin No. DAC W09-1-76-72 granted to County by the Secretary of the Army under authority of the Flood Control Act of 1944, Section 4 as amended 16 U.S.C. 460d and,

WHEREAS, a concession for the maintenance and operation of a food stand, cycle rental concession, boat rental concession and dock, and bait and tackle sales is consistent with said purpose; and

WHEREAS, Contractor is willing to exercise the grant of such a concession in accordance with the terms and conditions prescribed therefor; and

WHEREAS, the District Engineer for the Los Angeles District of the Army Corps of Engineers has approved the concession and use granted herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them do agree as follows:

1.0 OPERATING AGREEMENT WITH CORPS

1.1 This Agreement is granted subject to all rights and privileges retained by the United States of America, Department of the Army, (hereinafter: United States) within the Santa Fe Dam Recreation Area pursuant to the provisions and conditions of the "Department of the Army Lease for Park and Recreational Purposes Santa Fe Dam Flood Control Basin, No. DACW09-1-76-72", as approved by the Board of Supervisors of Los Angeles County on April 24, 1976 and granted to County by the Secretary of the Army under authority of Flood Control Act of 1944 Section 4 of the Act of Congress approved December 22, 1944, as amended. Accordingly, Contractor accepts and agrees to be bound by the following conditions thereof:

- a. That the primary purpose of the Santa Fe Dam Flood Control Basin is the control of flood, and nothing herein expressed or implied shall be construed so as to conflict with that purpose.
- b. That the concession premises shall be subordinate to the use thereof by the Department of the Army in the operation and maintenance of the Santa Fe Dam Flood Control and Basin.
- c. That the exercise of the privileges granted herein shall conform to such rules and regulations as may be prescribed by the Secretary of the Army to govern the public use of the Santa Fe Dam Recreational Area, and shall be subject to the general supervision of the District Engineer for the Los Angeles District of the Army Corps of Engineers (hereinafter: District Engineer).
- d. That the United States shall be held harmless from all claims which may arise from or be incident to the exercise of the privileges granted herein.
- e. That the United States and the Los Angeles County Flood Control District shall not be liable for damages to property or injuries to persons which may arise from or be incidental to the exercise of the privileges granted herein or for damages to the property of Contractor,

or for damages to the property or injuries to the person of Contractor and/or the officers, agents, servants or employees or others who may be on the concession premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of said premises by the United States or the Los Angeles County Flood Control District, or flooding from any other cause, or arising from or incident to any other governmental activities on the concession premises, and Contractor shall hold the United States, the Los Angeles County Flood Control District and the County of Los Angeles harmless from any and all such claims.

- f. That this Agreement shall be subject to the prior approval of the District Engineer.
- g. That charges for services rendered and for the use of the concession premises shall be reasonable and shall have the prior written approval of the District Engineer.
- h. That Contractor shall hold the United States, the Los Angeles County Flood District and the County of Los Angeles harmless from any and all claims or rights of action for damages which may or might arise or accrue to Contractor and/or the officers, agents, servants, employees or others who may be on the concession premises at their invitation or the invitation of any one of them, by reason of injuries to the property, or the person of any of them resulting from the entry upon or the use of the concession premises, by the United States, the Los Angeles County Flood Control District, the County of Los Angeles or any one of them at anytime, for any purpose necessary or convenient in connection with river and flood control work, or for the removal of timber required or necessary for such work, or by reason of the flooding of the concession premises, or any part thereof, when in the judgment of any of them such flooding is necessary in connection with flood control work.

- i. That the concession premises shall not be used for human habitation except for night watchmen or patrolmen. Any such night watchmen or patrolmen, and any structures or trailers located on the premises for the use of such persons shall be subject to the prior approval thereof by the District Engineer.
- j. That the United States, its officers, agents and employees may enter upon the concession premises at any time for any purpose necessary or convenient in connection with river and flood control work, and to remove therefrom timber or other material required or necessary for such work, to flood said premises when necessary, and/or to make any other use thereof as may be necessary in connection with flood control work, and Contractor shall have no claim for damages of any character on account thereof against the United States or any agent, officer, or employee thereof.
- k. That the United States may construct, or permit the construction of, facilities for military requirements and for communications, electrical distribution or transmission, water supply, flood channels, sewage disposal and similar purposes on the concession premises, and Contractor shall have no claim for compensation for damage of any character on account thereof.
- l. That this Agreement may be revoked by the Secretary of the Army in the event the County and/or Contractor violates any of the terms and conditions of this Agreement and persists therein for a period of thirty (30) days after notice thereof in writing by the District Engineer. Upon any such revocation, Contractor shall vacate the concession premises, remove all property therefrom and restore said premises to a condition satisfactory to the District Engineer within such time as the Secretary of the Army may designate. In the event of failure or neglect to remove property and/or restore the premises, then, at the option of the Secretary of the Army, said property shall either become the property of the United States without compensation therefor, or the Secretary of

the Army may cause it to be removed and the premises to be so restored at the expense of Contractor, and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work.

- m. That no member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Agreement or of the benefits arising from the Contractor's operations at Santa Fe Dam Recreation Area Food, Cycle, Boat and Bait Concession pursuant to this Agreement. Nothing, however, herein contained shall be construed to extend to any incorporated company, if said Agreement is for the general benefit of such corporation or company.

2.0 DEFINITIONS

- 2.1 The headings herein contained are for convenience and reference only and are not intended to define or limit the scope of any provision thereof.
- 2.2 The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:
 - 2.2.1 **Auditor-Controller:** The Auditor-Controller of the County of Los Angeles or an authorized representative thereof.
 - 2.2.2 **Beverage:** Any liquid prepared by flavoring, heating and/or mixing in advance of consumption thereof, including beer and wine only; as defined in the State Alcoholic Beverage Control Act.
 - 2.2.3 **Building Official:** The Director of the County of Los Angeles Department of Public Works or an authorized representative thereof.
 - 2.2.4 **Commercial Sublease:** Any authorized activity conducted on the premises by a sub-lessee that generates gross receipts.
 - 2.2.5 **Concession:** The privilege of engaging in the commercial activities authorized herein on the public property designated therefor.

- 2.2.6 **Director:** The Director of the County of Los Angeles Department of Parks and Recreation or an authorized representative thereof.
- 2.2.7 **District Engineer:** The District Engineer of the United States Army Corps of Engineers, Los Angeles District, his authorized representative, or his successor in interest.
- 2.2.8 **Gross Receipts:**
- a. Except as specifically provided by policy statement issued by the Director, the term "gross receipts" as used in this Concession Agreement, is defined to be all money, cash receipts, assets, property or other things of value, including but not limited to gross charges, sales, rentals, fees and commissions made or earned by Contractor and/or all the assignees, sublessees, licensees, permittees or Contractor thereof, whether collected or accrued from any business, use or occupation, or any combination thereof, originating, transacted or performed in whole or in part, on the concession premises, including but not limited to rentals, the rendering or supplying of services and the sale of goods, wares or merchandise.
 - b. Except as specifically provided below or by policy statement issued by Director, there shall be no deduction from gross receipts for any overhead or cost or expense of operations, such as, but without limitation to salaries, wages, costs of goods, interest, debt amortization, credit, collection costs, discount from credit card operations, insurance and taxes. Bona fide bad debts actually incurred by Contractor or its sublessees, assignees, licensees, contractors and permittees may be deducted from gross receipts. There shall, however, be no deduction for bad debts based on past experience or transfers to a bad debt reserve. Subsequent collection of bad

debts previously not reported as gross receipts shall be included in gross receipts at the time they are collected.

- c. Except as specifically provided below or by policy statement, gross receipts reported by Contractor and its sublessees, assignees, licensees, contractors and permittees, must include the full usual charges for any services, goods, rentals or facilities provided by Contractor or its sublessees, assignees, licensees, contractors or permittees. Gross receipts shall not include direct taxes imposed upon the consumer and collected therefrom by the Contractor such as, but not limited to, retail sales taxes, excise taxes, or related direct taxes, which are direct taxes paid periodically by Contractor to a governmental agency accompanied by a tax return statement.
- d. The Director, by policy statement, consistent with recognized and accepted business and accounting practices, and with the approval of Auditor-Controller and County Counsel, may further interpret the term "gross receipts" as used in this Concessionaire's Agreement.

2.2.9 **Gross Sales Price:** The total consideration resulting from the transfer of Contractor's interest in the concession, or portion thereof, determined by the total cash payments and the market value of all non-cash consideration, including, but not limited to, stocks, bonds, deferred payments, secured and unsecured notes, and forbearances regarding claims and judgments.

2.2.10 **Operational Year:** November 1 through October 31.

2.2.11 **State:** The State of California.

2.2.12 **Sublease:** Any lease, license, permit, concession or other interest in the premises that is granted by Contractor to a third party.

3. CONCESSION GRANTED

- 3.1 Contractor is hereby authorized and required to operate and maintain a food and beverage stand; and to operate and maintain a boat rental dock, rent watercraft and non-motorized cycles, and sell fishing tackle and bait and related recreational supplies. Contractor may also utilize a maximum of three (3) stationary food carts at locations to be designated by the Department. Contractor acknowledges that its authority to operate a food and beverage stand does not include the installation of food or beverage vending machines and that County retains all rights to contract for vending machine services at Santa Fe Dam.
- 3.2 The concession is granted subject to the rights reserved by the Government, its officers, agents and employees in the master lease, to enter the concession premises at any time and for any purpose necessary or convenient in connection with river, harbor and flood control work, and to remove timber or other material required for such work; to flood the concession premises when necessary, and/or to make any other use of the land as may be necessary in connection with flood control, and Contractor shall have no claim for damages of any character on account thereof against the Government or any agent, officer or employee thereof; to make inspections concerning the operation and maintenance of the concession granted; to prohibit any permanent type of recreation building or accessory facilities on the concession premises below twenty-five year (25) flood frequency elevations, as determined by the Government, and limit any such improvement to open type structures between twenty-five (25) and fifty (50) year flood frequency elevations, as determined by the Government.
- 3.3 The concession services provided by Contractor shall be exclusive within the confines of the Santa Fe Dam Recreation Area. Notwithstanding this provision, the Department reserves the right to schedule and co-sponsor special events at Santa Fe Dam Recreation Area that may involve the use of other food service providers for these special events.

- 3.4 Contractor understands and agrees that this Concession Agreement is by license and not lease; confers only permission to occupy and use the concession premises described for prescribed purposes in accordance with the terms and conditions hereinafter specified without granting or reserving to Contractor any interest or estate therein; the expenditure of capital and/or labor in the course of use and occupancy thereunder shall not confer any interest or estate in the premises by virtue of said use, occupancy and/or expenditure of money thereon; and it is the intention of the parties to limit the right of use granted herein to a personal, revocable and unassignable privilege of use in the premises for the concession granted herein.

4. CONCESSION PREMISES

- 4.1 The concession shall be conducted within the Santa Fe Dam Recreation Area, as shown on the attached Exhibit A.
- 4.2 The concession premises shall be used only and exclusively for purposes authorized herein, and such other purposes, as are related thereto provided express approval therefore is granted by the Director, and for no other purposes whatsoever.
- 4.3 Contractor acknowledges personal inspection of the concession premises and the surrounding area and evaluation of the extent to which the physical condition thereof will affect its operations. Contractor accepts the concession premises in their present physical condition, and agrees to make no demands upon County for any improvements or alterations thereof.
- 4.4 Any improvements, additions, alterations, or changes to the concession premises shall be subject to: prior approval by the District Engineer and the Director; securing of applicable permits by Contractor; and compliance with such terms and conditions as may be imposed by the District Engineer and the Director. All construction shall be at Contractor's expense.

- 4.5 Contractor hereby acknowledges the title of the United States of America, County, and/or any other public agencies having jurisdiction thereover, in and to the premises and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.
- 4.6 Ownership of all structures, buildings or improvements constructed by Contractor upon the concession premises and all alterations, additions or betterment's thereto, shall become the property of the County without compensation being paid therefor, subject to the rights granted to the Contractor hereinabove. Upon termination thereof, whether by expiration of the term, cancellation, forfeiture or otherwise, the Director or the District Engineer may require the Contractor to remove said structures, buildings and/or improvements upon written notice ninety (90) days prior to the date of termination of this Agreement. Should Contractor fail to remove said structures, buildings and improvements, same may be sold, removed or demolished, and Contractor shall reimburse County for any cost or expense in connection therewith in excess of any consideration received by County as a result of said sale, removal or demolition.

5.0 TERM OF AGREEMENT

- 5.1 The term of the Agreement shall commence on the first day of the month next succeeding the approval of this Agreement by County's Board of Supervisors and shall expire on October 31, 2009.

6.0 CONSIDERATION

- 6.1 Upon commencement of this Agreement and for the four (4) month period concluding October 31, 2004, Contractor shall pay County for the concession and the use granted herein an amount equal to fifteen percent (15%) of its gross receipts.
- 6.2 Upon commencement of the first complete operational year of this Agreement (November 1, 2004), Contractor shall pay County for the concession and the use granted a monthly amount that shall be equal to

the greater of fifteen percent (15%) of all monthly gross receipts or One Thousand Dollars (\$1,000.00).

- 6.3 Following completion of each operational year, County shall reconcile Contractor's total monthly payments with annual minimum rent obligation of Thirty Thousand Dollars (\$30,000) as provided for in sub section 6.6.
- 6.4 When the Director and Contractor find that with regard to a particular activity not otherwise provided for herein, the Director may authorize, with the consent of the District Engineer, said activity and establish a percentage of gross receipts and/or a minimum amount as payment for the privilege of engaging therein. Said percentage and/or minimum amount shall be set by mutual consent of the Director and Contractor and shall be reasonable in accordance with the revenue to be generated therefrom.
- 6.5 Payment shall be made to the Department on or before the fifteenth (15th) day of the calendar month following each month of the term of this Agreement. Payment shall be by check or draft and made payable to the County of Los Angeles Department of Parks and Recreation. Payment shall be mailed or otherwise delivered to the Treasurer/Tax Collector, P.O. Box 54927, Los Angeles, California 90054-0927. A late payment charge of two percent (2%) per month shall be added to any late payment received by the Treasurer-Tax Collector. However, the late payment charge herein provided may be waived, whenever the Director finds the late payment excusable by reason of extenuating circumstances. At no time during the term of this Agreement shall the County be obligated to notify the Contractor of the accumulation of late payment charges.
- 6.6 Within fifteen (15) days following the conclusion of any complete operational year, the Department will reconcile Contractor's monthly payments with their annual gross receipts. The reconciliation shall identify:

- A** Contractor's Annual Minimum Payment - \$30,000
- B** Contractor's total payments
- C** Contractor's gross receipts
- D** 15 % of Contractor's gross receipts

If the Department finds that amount **B** exceeds both amounts **A** and **D**, Contractor shall be entitled to a credit against future payments in the amount of **B** minus **D**. However, should amount **B** fail to equal or exceed amount **A**, then an amount equal to the difference shall be paid by Contractor to the Department no later than thirty (30) days following the end of the operational year.

- 6.7 Should the Contractor be required to reduce services pursuant to sub section 12.18 herein, Contractor may request a reduction in its minimum rent amounts proportionate to the resulting reduction in gross receipts. Said minimum amounts shall be set by mutual consent of the Director and Contractor.

7.0 ACCOUNTING RECORDS

- 7.1 All sales shall be recorded by means of cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded on a sales slip. Said cash registers shall in all cases have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset. In addition, such cash registers must have a tape located within the register upon which transaction numbers and sales details are imprinted. Beginning and ending cash register readings shall be made a matter of daily record. In the event of a technical or electrical failure of the cash registers, Contractor shall record by hand all collections, and issue a sequentially pre-numbered customer's receipt in like manner.

- 7.2 Contractor shall maintain a method of accounting that shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursements of Contractor in connection with the operation. The method of accounting, including bank accounts, established for said operation shall be separate from the accounting system used for any other business operated by Contractor or for recording Contractor's personal financial affairs. Such method shall include the keeping of the following documents:
- a. Regular books of accounting such as general ledgers;
 - b. Journals including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.;
 - c. State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sums shown which shall be kept in confidence by County;
 - d. Cash register tapes (daily tapes may be separated but shall be retained so that from day to day the sales and/or rentals can be identified);
 - e. Any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.
- 7.3 All documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this Agreement and for twelve (12) months thereafter. In addition, the County may from time to time conduct an audit and reaudit of the books and business conducted by Contractor and observe the operation of the business so that accuracy of the above records can be confirmed. All information obtained in connection with the County's inspection of records or audit shall be treated as confidential information and exempt from the public disclosure thereof to the extent permitted under the California Public Records Act.
- 7.4 Contractor shall furnish the Director with a monthly gross receipts report showing the amount payable therefrom to the County. Such a report shall

accompany each minimum rent or percentage rent payment required to be made as provided herein. The monthly gross receipts shall be recorded in the categories as identified immediately hereinafter:

food and beverages sales

boat and watercraft rentals

cycle rentals

bait, tackle and misc. picnic and recreation supplies sales

The monthly reporting period shall be by calendar month rather than monthly anniversary date of the effective date of this Agreement. In addition thereto, Contractor shall furnish an annual profit and loss statement and a balance sheet prepared by a person and in a form acceptable to the County. The annual profit and loss statement shall be submitted within sixty (60) days of the close of the calendar year.

- 7.5 In the event that an audit or review conducted by the Auditor-Controller and/or Director finds, due to Contractor's non-compliance with its obligation to report gross receipts received in connection with its operations authorized herein, that an actual loss and/or a projected loss of revenue to County can be determined, Director may, at his option, (a) bill Contractor for said losses, said amount to be paid to County within thirty (30) days following billing therefor unless otherwise specified by Director; and/or (b) use the Security Deposit as provided for herein.
- 7.6 In the event that an audit or review conducted by the Auditor-Controller and/or Director finds, due to Contractor's non-compliance with its obligation to report gross receipts received in connection with its operations authorized herein, that an actual loss and/or projected loss of revenue to County cannot be determined, Director may assess liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correctly report gross receipts, and a projected loss of revenue due to County. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is Five Hundred

Dollars (\$500.00) per day for each day of the loss period as determined by County, and that the Contractor shall be liable to the County for liquidated damages in said amount.

- 7.7 Should the Director find that the additional rental payment due to County exceeds two percent (2%) of the total amount which should have been paid as determined by such review or audit and observation, and there being no reasonable basis for the failure to report and pay thereon, Contractor shall also pay the cost of the audit as determined by County and pay any penalty heretofore provided for the delinquent payments.
- 7.8 Contractor shall cause all of its sub-lessees to comply with these requirements except that a sub-lessee shall only be required to establish and maintain those accounting records that the Auditor-Controller deems necessary to examine the reported gross receipts in accordance with generally accepted auditing standards.

8.0 IMPROVEMENTS

- 8.1 Approvals: Any proposed improvement undertaken by the Contractor, including but not limited to construction of utilities, landscape planting, replanting or removal, irrigation, site improvements such as paths, walkways, benches, lighting, parking lots, railings, demolition, relocation or replication of existing structures, and construction of new structures, shall have the prior written approval of the District Engineer and the Director. Notice of a proposed improvement project shall be provided to the Director in writing and shall include sufficient detail regarding proposed scope, cost estimate, time frame and proposed funding for the project. The Director will then forward a copy of said notice to the District Engineer. Written approval, or the estimated time required to provide such approval, shall be provided to the Contractor within 30 days of receipt of all necessary documents.
- 8.2 Funding: Unless otherwise approved by the Director in writing, all funds for the costs of any improvement, inclusive of costs of performance and payment bonds and the costs of any permits, shall be solely the

responsibility of the Contractor. The Director agrees to consult with the Contractor, as requested, with regard to the feasibility of public-assisted financing methods in connection with proposed capital improvements.

8.3 Plan Preparation:

8.3.1 The Contractor shall ensure that all improvement plans are prepared by qualified professionals such as architects, engineers, and landscape architects who are licensed by the State of California and are approved in advance by the Director. In addition, the Contractor shall be required to utilize the services of an experienced construction management consultant in connection with any project performed hereunder, unless otherwise agreed to in writing by the Director.

8.3.2 For projects requiring the issuance of a permit, Contractor shall prepare and submit two (2) sets of a preliminary design for review and approval by the Director. The Director will forward one set of the preliminary design to the District Engineer for review and approval. Within forty-five (45) days following approval of the preliminary design by the District Engineer and the Director, Contractor shall prepare and submit three (3) sets of working drawings for review and approval: two (2) sets shall be submitted to the Director and one set shall be submitted to the Building Official. The Director will forward one set of the working drawings to the District Engineer for review and approval. Should the Building Official require Contractor to make changes to the plans, Contractor shall make necessary changes and re-submit the plans to the Building Official as soon as possible, however, no later than 30 days. Upon approval thereof, said working drawings shall be incorporated herein by reference. Elements included in the approved design development shall not be subsequently disapproved in review of the working drawings. Contractor shall, within 30 days after

approval of the working drawings as provided herein, and causing the posting of the construction site with a notice of non-responsibility of County for payment for the works of improvement, commence construction of the above-described improvements and shall diligently prosecute and complete same.

- 8.4 Contract Approval: Copies of all agreements for projects requiring the issuance of a building permit between Contractor and the Contractor's architects, engineers, and contractors shall be furnished to and consented to in writing by the Director. The Director's consent shall not be unreasonably withheld.
- 8.5 Environmental Impacts: The Contractor shall coordinate environmental impact issues with the Director in compliance with the California Environmental Quality Act ("CEQA") and shall receive written approvals and authorizations from Director. The Contractor shall, however, maintain full responsibility for implementing all CEQA and related requirements.
- 8.6 Construction Management: The Contractor and/or its construction manager shall maintain responsibility for conducting regularly scheduled site inspections and job meetings and shall notify the Director of same. The Director will notify the District Engineer. Documentation of these meetings shall be maintained by the Contractor and be available for review by Corps or Department staff.
- 8.7 Completion of Improvements: The improvements requiring the issuance of a permit shall be deemed to be complete upon acceptance of the improvements by the Building Official as evidenced by the issuance of a certificate of occupancy and completion of punch list items and tenant improvements in areas to be subleased.
- 8.8 Plans of Record: Upon completion of the improvements, Contractor shall furnish the Director with one (1) complete set of "plans of record" working drawings; one (1) complete set of "plans of record" working drawings in AutoCADD and on CD (all circuit breakers, mechanical equipment,

switches, plumbing and fire sprinkler section and main valves shall be plainly labeled and a master index shall be provided); operating manuals for all building equipment and systems; and copies of all written warranties. Contractor shall assign to County all expressed warranties furnished by other persons in connection with the provision of labor and/or material to the works of improvement covered by this Agreement upon termination of this Agreement by expiration of term or cancellation.

- 8.9 Performance Bond: In connection with any improvement project performed hereunder, Contractor shall, at its own cost, obtain or require its contractor to obtain a performance bond from an admitted California surety, in good standing, in an amount equal to one hundred percent (100%) of the construction cost of the improvement, unless the Director otherwise agrees in writing. Said performance bond must be satisfactory to the County and shall name the County of Los Angeles and the Contractor as obligees.
- 8.10 Payment Bond: In connection with any project performed hereunder, the Contractor shall, at its own cost, obtain or require its contractors to obtain a payment bond from an admitted California surety, in good standing, equal to one hundred percent (100%) of the construction cost of the project, unless the Director otherwise agrees in writing. Said payment bond and surety must be satisfactory to the County and shall name the County and the Contractor as obligees.
- 8.11 Prevailing Wages: In connection with any capital improvement performed hereunder, the Contractor shall comply with and shall require all of its contractors to comply with all provisions of the Labor Code of the State of California, including but not limited to, the payment of prevailing wages to all persons providing labor on any such project.
- 8.12 Compliance With All Laws and Building Codes: The Contractor shall comply with and require its contractors to comply with all applicable laws, including Building Code requirements in connection with any projects performed hereunder.

- 8.13 Upon review by and consultation with County's Risk Manager, Contractor shall provide such insurance coverage as Director deems necessary for the completed construction project.
- 8.14 Additional Provisions: It is contemplated that the County may impose additional obligations on the Contractor with respect to particular capital improvement projects performed hereunder and such additional requirements may be set forth in a separate writing signed by the Contractor and the Director on behalf of the County.

9.0 SECURITY DEPOSIT

- 9.1 Prior to the commencement of this Agreement, Contractor shall pay to the Director an amount equal to one-quarter (1/4) of the annual minimum rental amount. In lieu thereof, Contractor may deposit said amount in a bank whose deposits are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) or a savings and loan institution whose deposits are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided that a certificate of deposit is delivered to the Director giving County the exclusive right to withdraw any or all of said amount during the term of this Agreement. Contractor shall be entitled to any and all interest accruing from said certificate of deposit.
- 9.2 Said Deposit shall serve as security for faithful performance of all covenants, promises and conditions assumed herein by Contractor, and may be applied in satisfaction and/or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments; correction of maintenance deficiencies; securing required insurance; loss of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations; a breach of obligations assumed by Contractor herein with respect to the requirements therefore by County, including the payment of mechanic's liens. Application of amounts on deposit in satisfaction and/or mitigation of damages shall be

without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.

- 9.3 In the event any or all of said amount is applied in satisfaction and/or mitigation of damages Contractor shall immediately deposit such sums as are necessary to restore the Security Deposit to the full amount required hereunder.
- 9.4 Said Deposit shall be returned to Contractor upon termination of this Agreement less any amounts that may be withheld therefrom by County as heretofore provided.

10.0 DESTRUCTION OF THE CONCESSION PREMISES AND/OR SANTA FE DAM RECREATION AREA

- 10.1 In the event the concession premises shall be totally or partially destroyed by a risk covered by the insurance coverage required herein, Contractor shall either restore the premises or terminate this Concession Agreement. If the destruction is from a risk for which coverage is not required or provided under said policy of insurance, County shall either restore the premises or terminate this Concession Agreement. County shall make the loss adjustment with the insurance company insuring the loss and receive payment of the proceeds of insurance. Said insurance proceeds, if any, shall be held for the benefit of Contractor only in the event of an election by Contractor to restore the premises and shall be disbursed in installments as construction progresses for payment of the costs of restoration upon satisfactory performance of the work required, as evidenced by certification of completion by the Director and release of mechanic's liens by all persons furnishing labor and materials thereon. If the proceeds of insurance are insufficient to pay the actual costs of restoration, Contractor shall deposit the amount of the deficiency with the County upon demand therefor by the Director, and said sums shall be held for payment of said costs and disbursed in the manner heretofore provided. Any undistributed funds shall be retained by County and credited to the rental reserved over the remaining term of this Concession

Agreement. In the event Contractor elects to restore the concession premises, plans, specifications, and construction cost estimates for the restoration thereof shall be prepared by Contractor and forwarded to Director for approval prior to the performance of any work thereon. Said documents shall be prepared and submitted in a timely manner following adjustments of the loss and receipt of the proceeds of insurance by County. The required construction shall be performed by Contractor and/or licensed and bondable contractor(s) thereof who shall be required to carry comprehensive liability and property damage insurance, workers' compensation insurance, and standard fire, and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction, in amounts equal to the insurance limits required herein, or as otherwise determined by the County. Said construction shall be commenced promptly following the approval thereof by the Director, issuance of permits therefor by governmental agencies having jurisdiction thereover, and posting of the construction site by County with notice of non-responsibility, and shall be diligently prosecuted to completion. All work shall be performed in accordance with the approved plans and specifications, unless changes therein are approved in advance thereof by Director. Contractor agrees that County may have on the site at any time during the construction period an inspector who shall have the right of access to the concession premises and the work occurring thereon. Contractor, at the commencement of the construction work, shall notify Director in writing of the identity, place of business, and telephone number of responsible person(s) in charge of the construction to be occurring thereon. All construction shall be performed in a good and workmanlike manner. Upon completion of the restoration, Contractor shall immediately record a notice of completion with the Registrar-Recorder.

- 10.2 If the premises are restored, this Agreement shall continue in full force and effect, except that the payment to be made by Contractor shall be abated

and/or other relief afforded to the extent that the Director may determine the damage and/or restoration interferes with the concession operation provided a claim therefor is filed with the Director within one hundred (100) days of notice of election to restore the premises. Any such claim shall be denied if the destruction of the concession premises is found by the Director to have been caused by the fault or neglect of Contractor. Contractor agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested relative to the concession operation, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

- 10.3 Contractor shall cooperate in the restoration of the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required for the restoration thereof.
- 10.4 The aforesaid provisions for abatement and/or other relief shall also be applicable to a total or partial destruction of Santa Fe Dam Recreation Area by the aforementioned causes, except that the relief to be provided shall be based upon the extent the Director may determine that the reduction in the public's use of said park due to the partial or total closure thereof has affected the concession.
- 10.5 Contractor agrees to accept the remedy heretofore provided in the event of a destruction of the concession premises and/or Santa Fe Dam Recreation Area and hereby waives any and all additional rights and remedies for relief or compensation that are presently available or may hereafter be made available under the laws and statutes of this State.

11.0 CONSTRUCTION BY COUNTY AFFECTING CONCESSION PREMISES AND/SANTA FE DAM RECREATION AREA

- 11.1 In the event County shall construct or cause to be constructed a new facility for the concession, this Agreement shall continue in full force and effect, except that the payments to be made by Contractor shall be abated

and/or other relief afforded to the extent that the Director may determine the construction interferes with the authorized operations, provided a claim therefor is filed with the Director within one hundred (100) days of commencement of construction.

- 11.2 Contractor agrees to cooperate with County in the event the construction affects the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required by the construction of the new facilities. Contractor further agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested relative to the operation and permitting examination and audit of all accounting records kept in connection with the conduct thereof.
- 11.3 Following completion of the new facility, Contractor shall resume its operations therefrom within thirty (30) days of written notice from the Director that the concession premises are tenantable.
- 11.4 The aforementioned provisions of this section shall also be applicable in the event of performance of work at the Santa Fe Dam Recreation Area that requires a partial or total closure thereof, except that the abatement and/or other relief to be provided shall be based upon the extent the Director may determine that the reduction in the public's use of the Santa Fe Dam Recreation Area due to the partial or total closure thereof, has affected the Contractor's operations.
- 11.5 Contractor agrees to accept the remedy heretofore provided in the event of construction upon the concession premises and/or the Santa Fe Dam Recreation Area, and hereby waives any and all additional rights and remedies for relief or compensation that are presently available or may be made available hereafter under the laws and statutes of this State.

12.0 OPERATING RESPONSIBILITIES

12.1 Advertising and Promotional Materials

Contractor shall not promulgate nor cause to be distributed any advertising, or promotional materials unless prior approval thereof is

obtained from Director. Said approval shall not be unreasonably withheld or delayed and shall be deemed to be given if no objection is made within fifteen (15) days following the request for approval. Such materials include, but are not limited to, advertising in newspapers, magazines and trade journals, and radio and/or television commercials. Contractor also acknowledges that use of third-party beverage or food provider logos, signs and other promotional materials is subject to restrictions imposed pursuant to County's Vending Machine agreement(s).

12.2 Boat Equipment

Contractor shall have a sufficient number of boats on hand to satisfy public demand. Said boats shall be of a variety of non-motorized boats, none of which shall exceed sixteen (16) feet in length. Contractor may supply sailboats, rowboats, paddleboats, kayaks, canoes and any other recreational craft of a similar nature, provided it has been approved in advance by the Director. Boats offered for rental must be of a design which will fully comply with any and all safety requirements of the State of California, Department of Boating and Waterways. Lifejackets or floatable safety cushions must also be supplied for all persons utilizing boats. Said flotation devices must meet acceptable safety standards as determined by the above cited State Department. Boats offered for rent shall be numbered in accordance with applicable regulations established by the Department of Motor Vehicles, State of California. Director may require Contractor to provide a chase boat to retrieve rental boats that are for any reason unable to return to the Contractor's dock without assistance.

12.3 Compliance with Laws, Rules and Regulations

Contractor shall conform to and abide by all municipal and County ordinances, and all State and Federal laws and regulations, insofar as the same or any of them are applicable; and where permits and/or licenses are required for the concession, any related activity, and/or construction authorized herein, the same must be first obtained from the regulatory agency having jurisdiction thereover. Further, Contractor shall conform to

and abide by all rules and regulations and policies of the County's Board of Supervisors, the Director of the Department of Parks and Recreation, and any other County agencies insofar as the same or any of them are applicable.

12.4 Contractor's Staff and Employment Practices

12.4.1 Contractor shall maintain adequate and proper staffing for its Food, Cycle, Boat and Bait operations at all times. Contractor shall designate an Operations Manager with whom County may deal with on a daily basis. The Operations Manager shall be skilled in the management of businesses similar to the concession operation and shall be subject to approval by the Director. The Operations Manager shall devote substantial time and attention to the operation authorized herein and render such services and convenience to the public as are required. The Operations Manager shall be fully acquainted with the concession operation, familiar with the terms and the conditions prescribed therefor by this Agreement, and authorized to act in the day-to-day operation thereof.

12.4.2 The Director may at any time give Contractor written notice to the effect that the conduct or action of a designated employee of Contractor is, in the reasonable belief of the Director, detrimental to the interest of the public patronizing the concession premises. Contractor shall transfer or reassign any such employee within a reasonable period of time following notice thereof from the Director, and such employee shall not be assigned to any other County Department of Parks and Recreation facility.

12.4.3 Contractor warrants that it fully complies with all laws regarding employment of aliens and others, and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform

and Control Act of 1986 (P.L. 99-603). Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of federal statutes or regulation pertaining to the eligibility for employment of persons performing services under this Agreement.

12.4.4 Contractor shall file with the Director, a certificate for each member of the food and beverage staff showing that within the last two (2) years, such person has been examined and has been found to be free of communicable tuberculosis. "Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the California Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association that indicates freedom from active tuberculosis.

12.5 Credit in Promotional Materials

Contractor agrees that any advertising or promotional materials promulgated by Contractor which contain the words "Santa Fe Dam Recreation Area" or any derivative thereof, shall also include the phrase "a unit of the County of Los Angeles Department of Parks and Recreation System" unless specifically approved otherwise by the Director.

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12.6 Cycle Rentals

Contractor shall conduct its cycle rentals in accordance with its "Safety Program for Crowded Days" (Exhibit B) and on crowded days in the areas identified in Exhibit A - 1.

12.7 Days and Hours of Operation

Contractor shall have the right to use the demised premises during the normal hours of operation of Santa Fe Dam Recreation Area. From June 1 until September 30 of each year of the Concession Agreement term, the concession shall be kept open daily. During the period from October 1, through May 31, the concession shall be kept open every Saturday, Sunday, and Holiday, except during periods of inclement weather and on Christmas Day. The minimum hours of the boat rental and bait operation shall be 7:00 a.m. to 3:30 p.m. each day that the concession is required to be open. The minimum hours of the food and beverage operation shall be 12:00 p.m. (noon) to sunset each day that the concession is required to be open.

12.8 Department's Use of Concession Premises

Notwithstanding Paragraph 3.3 of this Agreement, the Department reserves the right to schedule the use of the concession premises for special events sponsored by the Department. Specific dates and the areas to be used shall be arranged with the Contractor. County shall be responsible for repairing any damage, except for normal wear and tear, to the concession premises while conducting said activities.

12.9 Disorderly Persons

Contractor agrees to exercise every reasonable effort to not allow any loud, boisterous or disorderly persons about the concession premises.

12.10 Easements

County and District Engineer reserve the right to establish, grant or utilize easements or rights of way over, under, along and across the concession premises for utilities and/or public access provided that County shall exercise such rights in a manner as will avoid any substantial interference

with the operations to be conducted hereunder. Should the establishment of such easements permanently deprive Contractor of the use of a portion of the concession premises, an abatement of payments shall be provided in an amount proportional to the total area of the premises in the before and after conditions.

12.11 Habitation

The concession premises shall not be used for human habitation, other than a night watchman or patrolman approved by the Director.

12.12 Illegal Activities

Contractor shall not knowingly permit any illegal activities to be conducted upon the concession premises.

12.13 Maintenance

12.13.1 Contractor shall be responsible for maintaining the Concession Premises in good and substantial repair and condition, and in compliance therewith shall perform all repairs to and replacement of all improvements and equipment thereof, including the painting thereof upon written request therefor by the Director. In addition to this general requirement, Contractor shall perform any and all repairs required for the maintenance thereof in compliance with all laws applicable thereto; replace broken window glass; replace exterior and interior lights; repair plumbing and lighting fixtures; repair flooring; and replace broken or damaged doors. Additionally, Contractor shall be responsible for repairing damage to the exterior of the facility caused by malicious mischief, vandalism or burglary of the food, boat, and bait concession area caused by actions of Contractor, its agents and/or employees thereof. All maintenance shall commence within thirty (30) days of the need thereof and diligently prosecuted to completion of same, except where the state of disrepair is such that an emergency or hazard is created thereby in which event there shall be an immediate correction thereof.

12.13.2 Either party may cure the default of the other party hereto with respect to the maintenance obligations assumed herein, and upon performance thereof shall acquire a right of reimbursement therefrom for the actual costs of same, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior mutual agreement between Director and Contractor upon the nature and scope of the work to be performed and the costs to be incurred thereby. Any demand of County for reimbursement hereunder shall be satisfied by Contractor through payment of the sums deposited with County as security for faithful performance, and/or pro rata monthly installments over the remaining term of this Agreement, commencing with the month next succeeding the date of completion of the maintenance performed. Any demand of Contractor for reimbursement hereunder shall be satisfied by County through a credit against the monthly rental obligation of Contractor, commencing with the month next succeeding the date of completion of the maintenance performed, and for each and every other month of the remaining term of this Agreement, until a total credit has been provided up to the lesser of the actual costs of cure or the rental reserved over said remaining term. County and Contractor waive all rights to payment on their respective rights to reimbursement for the actual costs of cure of the default of the other with respect to the maintenance obligations assumed herein, except in the manner and amounts heretofore provided.

12.14 Merchandise

Contractor may provide an inventory of concession merchandise required to meet the needs of the public therefor. All food and beverages sold or kept for sale by Contractor shall be first-class in quality, wholesome and pure, and shall conform to the Federal, State and County food laws,

ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Contractor, and all merchandise kept on hand by Contractor shall be stored and handled with due regard for sanitation. In the event that the Director determines that any merchandise, and/or food products are below first class, the Director shall have the right to order the improvement of the quality of any such items kept or offered for sale.

12.15 Non-Interference

Contractor shall not interfere with the public use of and the programming within the Santa Fe Dam Recreation Area.

12.16 Prices

Contractor shall at all times maintain a complete list or schedule of the prices collected for all fees, charges, goods, rentals, and services, or combinations thereof, supplied to the public on or from the concession premises. All price increase requests shall be submitted in writing to the Director for approval. Prior written approval shall be received from the Director before price increases are enacted. Said prices shall be fair and reasonable based upon the following considerations: that the concession is intended to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this Agreement. In the event the Director notifies Contractor that prices being charged are not fair and reasonable, Contractor shall have the right to confer with the Director and justify said prices. Following reasonable conference and consultation thereon, Contractor shall make such price adjustments as may be ordered by the Director. Contractor may appeal the determination of the Director to the Board of Supervisors, whose decision thereon shall be final and conclusive. However, Contractor shall comply with the

ordered price adjustment pending the appeal and final ruling thereon by the Board of Supervisors.

12.17 Programmed Events

Contractor shall not promote or sponsor private or public events requiring the use of the Santa Fe Dam Recreation Area. However, this provision shall not prohibit Contractor from generally advertising or encouraging public use of the Santa Fe Dam Recreation Area.

12.18 Quality of Goods and Services

Service to the public, with goods, services, and merchandise of the best quality and at reasonable charges, is of prime concern to County and is considered a part of the consideration for this Agreement. Therefore, Contractor agrees to operate and conduct its concession operation in a first-class manner, and comparable to other first-class facilities providing similar activities, programs and services. Contractor shall furnish and dispense foods, beverages, and merchandise of the best quality and shall maintain a high standard of service at least equal to that of similar events and programs conducted on County parks and/or adjacent communities and to those prevailing in such areas for similar products and services, and without discrimination. Contractor, following receipt of written notification therefor, shall immediately withdraw or remove from sale any goods or services which may be found objectionable to the Director based on findings that the provision of such goods or services are harmful to the public welfare.

12.19 Safety

Contractor shall immediately correct any unsafe condition of the concession premises, as well as any unsafe practices occurring thereon. Contractor shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the concession premises. Contractor shall cooperate fully with County in the investigation of any accidental injury or death occurring on the concession premises, including a prompt report thereof to the Director. Contractor

shall cooperate and comply fully with County, State, municipal, federal or any other regulatory agency having jurisdiction thereover, regarding any safety inspections and certifications of any and all Contractor's structures, enclosures, vehicles, booths, equipment and rides.

12.20 Sanitation

No offensive matter or refuse, or substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted or remain on the Concession Premises. Contractor shall prevent the accumulation of trash and debris for a distance of fifty (50) feet from the Concession Premises. Contractor shall provide that all litter and refuse is collected as often as necessary, and in no case less than once a week, and shall pay all charges which may be made for the removal thereof. Contractor shall furnish all equipment and materials necessary, including trash receptacles of the size, type, color and number required by the Director, to maintain the Concession Premises and the area within a distance of fifty (50) feet thereof in a sanitary condition.

12.21 Security Devices

Contractor, at its own expense, may provide any legal security devices or equipment and the installation thereof, designated for the purpose of protecting the concession premises from theft, burglary or vandalism, provided written approval for the installation thereof is first obtained from the Director.

12.22 Signs

Contractor shall not post signs upon premises or improvements thereon unless prior approval thereof is obtained from the Director. Signs shall also be subject to review and control by the District Engineer in accordance with the master lease.

12.23 Trade Fixtures

Contractor shall provide and install all appliances, furniture, fixtures and equipment that are required for the concession. During the last thirty (30)

days preceding the termination of this Agreement, Contractor shall remove same from the premises, other than for those items of personality which have been furnished by County or so affixed that their removal therefrom cannot be accomplished without damage to the realty. Should Contractor fail to so remove said appliances, furniture, fixtures, equipment, door locks and padlocks within said thirty (30) day period, Contractor shall lose all right, title and interest in and thereto, and County may elect to keep same upon the premises or to sell, remove or demolish same. Contractor shall reimburse County for any and all costs, as determined by the Director, incurred in excess of any consideration received from the sale, removal or demolition thereof.

12.24 Utilities

12.24.1 County shall provide and pay for any necessary utilities serving the concession premises excluding telephone service. Contractor shall pay for telephone service to the Santa Fe Dam Food, Cycle, Boat and Bait Concession Area. Contractor waives any and all claims against County for compensation for loss or damage caused by a defect, deficiency or impairment of any utility system, water system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the concession premises. Contractor shall make every reasonable effort in its operations to minimize County's costs for utilities.

12.24.2 County at its sole discretion and at any time during the term of this Agreement, may install or cause to be installed a separate metering system for the electric service to the food, boat and bait concession area. Subsequent to said installation, Contractor shall be solely responsible for the payment of electric service to the group food, boat and bait concession area provided there is mutual agreement on the terms and conditions therefor. The Director may adjust the monthly minimum amount and/or

percentage of gross receipts as a result of the Contractor assuming the cost of said electric service. Said modified amount and/or percentage shall be set by mutual consent of the Director and the Contractor and shall be reasonable in accordance with the costs directly related thereto. Upon confirmation and approval-as-to-form of County Counsel, the Contractor shall execute the appropriate amendment to this Agreement.

13.0 TERMS AND CONDITIONS

13.1 AGREEMENT ENFORCEMENT AND AMENDMENTS TO THE AGREEMENT

- 13.1.1 The Director shall be responsible for the enforcement of this Agreement on behalf of County and shall be assisted therein by those officers and employees of County having duties in connection with the administration thereof.
- 13.1.2 Any officers and/or authorized employees of County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Contractor is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of County within the concession premises.
- 13.1.3 In the event either party commences legal proceedings for the enforcement of this Agreement, the prevailing party shall be entitled to recover its attorney's fees and costs incurred in the action brought thereon.
- 13.1.4 This document may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by Contractor and in the case of County, until approved by County's Board of Supervisors and executed by the Chairman thereof.

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13.2 CANCELLATION

- 13.2.1 Upon the occurrence of any one or more of the events of default hereinafter described in Subsection 13.12, this Agreement shall be subject to cancellation. As a condition precedent thereto, the Director shall give Contractor ten (10) days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefore; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made therefore.
- 13.2.2 Upon cancellation, County shall have the right to take possession of the concession premises, including all improvements, equipment, and inventory located thereon, and use same for the purpose of satisfying and/or mitigating all damages arising from a breach of this Agreement.
- 13.2.3 Action by County to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.
- 13.2.4 Any trustee, beneficiary, mortgagee or lender (hereinafter: Lender) under a hypothecation or mortgage previously approved by the Director shall have the right at any time during the term of this Agreement to undertake any and all action that may be required in order to prevent a cancellation of this Agreement and a forfeiture of the concession. Accordingly, the Director shall send a copy of any intended cancellation of this Agreement to any such Lender whose security would be affected thereby, provided that such Lender shall have previously registered with the Director by written notice specifying the name and address of said Lender; and upon request thereof for postponement, extend the date set therefore by such time as the Director finds reasonable in order to allow

said parties to correct the grounds therefore or to provide a new Contractor under a power of sale or foreclosure contained in the hypothecation or mortgage, who upon transfer thereto shall become responsible for the correction thereof within such time as may be allowed by the Director.

- 13.2.5 In the event that, following service of the Notice of Cancellation of this Agreement under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, that the default was excusable under provisions of this clause, or Contractor has, to the satisfaction of the Director, cured any default, the Director shall issue, within five (5) business days, a rescission of the Notice of Cancellation, and the rights and obligations of the parties shall be the same as if the Notice of Cancellation had not been issued.

13.3 COMPLIANCE WITH CIVIL RIGHTS LAW

The Contractor hereby assures that it will comply with Subchapter VII of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. The Contractor shall comply with Exhibit C - Contractor's EEO Certification.

13.4 CONFLICT OF INTEREST

- 13.4.1 No County employee whose position with the County enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the

Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

- 13.4.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

13.5 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

13.6 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

The Contractor acknowledges that the County places a high priority on the enforcement of child support laws and the apprehensive of child support evaders. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the Contractor's place of business. The County's Child Support Services Department will supply the Contractor with the poster to be used.

13.7 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

13.8 CONTRACTOR'S NON-COMPLIANCE AND LIQUIDATED DAMAGES

13.8.1 In the event the Director determines that there are deficiencies in Contractor's operations authorized and required herein, the Director will provide, as specified in Subsection 13.12 of this Agreement, Events of Default, a written notice to the Contractor to correct said deficiencies within specified time frames.

13.8.2 In the event that Contractor fails to correct the deficiencies within the prescribed time frames the Director may, at his option: (1) use the Security Deposit as provided for herein, (2) exercise its rights under the Subsection 13.26 (Right of Entry) and/or (3) assess liquidated damages. The parties agree that it

would be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to comply with the obligations for concession operations herein authorized and required. The parties hereby agree that under the current circumstances a reasonable estimate of such damage is \$250.00 per day for each day of the period of time the deficiencies exist, and that Contractor shall be liable to County for liquidated damages in said amount.

13.9 CONTRACTOR'S RESPONSIBILITY AND DEBARMENT

- 13.9.1 A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible Contractors.
- 13.9.2 The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other Agreements which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County Agreements for a specified period of time not to exceed 3 years, and terminate any or all existing Agreements the Contractor may have with the County.
- 13.9.3 The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a Agreement with the County or a nonprofit corporation created by the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform an Agreement with the County or any other public entity, or

engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

- 13.9.4 If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence that is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- 13.9.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative decision prior to its presentation to the Board of Supervisors.
- 13.9.6 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Hearing Board.
- 13.9.7 These terms shall also apply to Subcontractors of County Contractors.

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13.10 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

13.10.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Purchase Order or Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

13.10.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

13.11 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate Contractor's performance under this agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all agreement terms and performance standards. Contractor deficiencies that County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected, will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may

terminate this agreement or impose other penalties as specified in this agreement.

13.12 EVENTS OF DEFAULT

- 13.12.1 The abandonment, vacation or discontinuance of operations on the premises for more than twenty-four (24) consecutive hours.
- 13.12.2 The failure of Contractor to punctually pay or make the payments required herein when due, where the delinquency continues beyond ten (10) days following written notice for payment thereof.
- 13.12.3 The failure of Contractor to operate in the manner required by this Agreement, where such failure continues for more than ten (10) days after written notice from the Director to correct the condition.
- 13.12.4 The failure to maintain the concession premises and the improvements constructed thereon in the state of repair required herein, and in a clean, sanitary, safe and satisfactory condition, where such failure continues for more than ten (10) days after written notice from the Director to correct the condition.
- 13.12.5 The failure of Contractor to keep, perform and observe all of the other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after written notice from the Director for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Contractor shall have commenced to perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extent allowed by the Director.

- 13.12.6 Determination by the County, the California Fair Employment and Housing Commission, or the Federal Equal Employment Opportunity Commission of discrimination having been practiced by Contractor in violation of State and/or Federal laws thereon.
- 13.12.7 Transfer of the majority controlling interest of Contractor to persons other than those who are in control at the time of the execution of this Agreement without approval thereof by the Director.

13.13 FORCE MAJEURE; TIME EXTENSION

If performance by a party of any portion of this Agreement is made impossible or impractical by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor, utilities, supplies or materials or reasonable substitutes for those items; administrative or court proceedings; government actions; civil commotions; fire, earthquake, war, weather, or other casualty; or other causes or circumstances beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Contractor's obligation to pay rent however is not excused by this Section.

13.14 GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

13.15 INDEPENDENT CONTRACTOR

This Agreement is by and between the County of Los Angeles and Contractor and is not intended, and shall not be construed to create the

relationship of agent, servant, employee, partnership, joint venture or association, as between County and Contractor. Contractor understands and agrees that all persons furnishing services on behalf of Contractor pursuant to this Agreement are, for purposes of Worker's Compensation Liability, employees solely of Contractor and not of County. Contractor shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services on behalf of Contractor pursuant to this Agreement.

13.16 INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless County, its Special Districts, the United States Army Corps of Engineers, and the County of Los Angeles Flood Control District, their agents, officers, and employees from and against any and all liability, including but not limited to, demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement. Contractor's duty to indemnify the County, the United States Army Corps of Engineers, and the County of Los Angeles Flood Control District shall survive the expiration or other termination of this Agreement.

13.17 INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the County and during the term of this Agreement, the Contractor shall provide and maintain at its own expense, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A: VII, unless otherwise approved by the County. Further, all such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County and, with the Exception of Worker's Compensation insurance, shall name the County of Los Angeles, its

Special Districts, the United States Army Corps of Engineers and the County of Los Angeles Flood Control District as additional insureds.

13.17.1 Evidence of Insurance:

Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the Department of Parks and Recreation, Attention: Toni Simmons, 433 South Vermont Avenue, Los Angeles, CA 90020, prior to commencing services under this Agreement. Such certificates or other evidence shall:

- a. Specifically identify this Agreement.
- b. Clearly evidence all coverage's required in this Agreement.
- c. Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.
- d. Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, the United States Army Corps of Engineers and the County of Los Angeles Flood Control District, its officials, officers and employees as insureds for all activities arising from this Agreement.
- e. Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

13.17.2 Notification of Incidents, Claims or Suits

Contractor shall report to County:

- a. Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.
- b. Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.
- c. Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager.
- d. Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

13.17.3 Insurance Coverage Requirements for Subcontractors

Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- a. Contractor providing evidence of insurance covering the activities of subcontractors; or
- b. Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

13.18 INSURANCE COVERAGE REQUIREMENTS

- 13.18.1 Contractor shall provide and maintain, throughout the term of this Agreement, the following programs and amounts of insurance:

- a. **General Liability:** Insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

| | |
|---|-------------|
| General Aggregate: | \$2,000,000 |
| Products/Completed Operations Aggregate: | \$1,000,000 |
| Personal and Advertising Injury: | \$1,000,000 |
| Each Occurrence: | \$2,000,000 |

- b. **Automobile Liability:** Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence. Such insurance shall include coverage for all "owned" "non-owned and hired" vehicles, or coverage for "any auto".

- c. **Workers Compensation and Employer's Liability:** Insurance providing workers compensation benefits, as required by the Labor Code of the State of California, or any other state, and for which the Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Long shore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Contractor is responsible. In all cases, such insurance shall also include Employer's Liability coverage for all persons providing services on behalf of the Contractor and for all risk to such persons under this Agreement with limits of not less than the following:

| | |
|--------------------------|-------------|
| Each Accident: | \$1,000,000 |
| Disease - policy limit: | \$1,000,000 |
| Disease - each employee: | \$1,000,000 |

- d. **Property Coverage:** Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than five percent (5%) of the property value, and shall include:
 - i. **Personal Property: Automobiles and Mobile Equipment** - Special form ("all risk") coverage for actual cash value of County-owned or leased property; and
 - ii. **Real Property and All Other Personal Property** - Special form ("all risk") coverage for the full replacement value of County-owned or leased property.

13.18.2 Failure to Procure Insurance

- a. Failure by Contractor to procure or maintain the required insurance, or to provide evidence of insurance coverage acceptable to the County, shall constitute a material breach of the agreement upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.
- b. Notwithstanding the above and in the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

13.19 NON-DISCRIMINATION AND AFFIRMATIVE ACTION

- 13.19.1 The Contractor certifies and agrees that all persons employed by it, it's affiliates, subsidiaries or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or

mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

- 13.19.2 The Contractor shall certify to and comply with the provisions of Exhibit C, Contractor's EEO Certification.
- 13.19.3 The Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 13.19.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders and vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 13.19.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any other project, program, or activity supported by this Agreement.

- 13.19.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Sub-Paragraph 13.19 when so requested by the County.
- 13.19.7 If the County finds that any provisions of this Sub-Paragraph 13.19 have been violated, such violation shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.
- 13.19.8 The parties agree that in the event Contractor violates the non-discrimination provisions of this Agreement, County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code 1671 as liquidated damages in lieu of canceling, terminating or suspending this Agreement

13.20 NOTICE TO EMPLOYEES REGARDING FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

13.21 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit F of this Agreement and is also available on the Internet at www.babysafela.org for printing purposes.

13.22 NOTICES

Any notice required to be given under the terms of this Agreement or any law applicable thereto may be: (1) delivered by personal service; or (2) placed in a sealed envelope, with postage paid, return receipt requested, addressed to the person on whom it is to be served, and deposited in a post office, mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon Contractor shall be Wheel Fun Rentals, 4526 Telephone Road, #202, Ventura, CA 93003, or such other place as may hereafter be designated in writing to the Director by Contractor. The address to be used for any notice served by mail upon County shall be Department of Parks and Recreation, Contracts and Golf Division, 433 South Vermont Avenue, Los Angeles, CA 90020, or such other place as may hereafter be designated in writing to Contractor by the Director. Service by mail shall be deemed complete upon deposit in the above-mentioned manner.

13.23 PUBLIC RECORDS ACT

13.23.1 Any documents submitted by Contractor; all information obtained in connection with the County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Paragraph 7.3 of this Agreement; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process

for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order of court of competent jurisdiction.

- 13.23.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in any action or liability arising under the Public Records Act.

13.24 PUBLICITY

- 13.24.1 In recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Agreement within the following conditions:
- a. The Contractor shall develop all publicity material in a professional manner; or
 - b. During the term of this Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

- 13.24.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this Subsection 13.24 shall apply.

13.25 RECYCLED-BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Agreement.

13.26 RIGHT OF ENTRY

- 13.26.1 Should Contractor be deemed deficient, as determined by the Director, in its performance of its obligations required hereunder, County in addition to all other available remedies may, but shall not be so obliged, enter upon the premises and correct Contractor's deficiencies using County forces, and equipment and materials on the premises suitable for such purposes, or by employing a separate private contractor. County's cost so incurred, including direct and indirect overhead cost as determined by the Director, shall be reimbursed to County by Contractor and/or its sureties within thirty (30) days of demand thereof.
- 13.26.2 Any officers and/or authorized employees of the Corps of Engineers and County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Contractor is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of the County and Corps of Engineers within the concession premises.
- 13.26.3 In the event of an abandonment, vacation or discontinuance of operations for a period in excess of twenty-four (24) hours,

Contractor hereby irrevocably appoints County as an agent for continuing operation of the concession granted herein, and in connection therewith authorizes the officers and employees thereof to (1) take possession of the concession premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Contractor; (3) sublease or sublicense the premises; and (4) after payment of all expenses of such subleasing or sublicensing, apply all payments realized therefore to the satisfaction and/or mitigation of all damages arising from Contractor's breach of this Agreement. Entry by the officers and employees of County upon the premises for the purpose of exercising the authority conferred hereon as agent of Contractor shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.

- 13.26.4 No re-entry or taking of the premises by County pursuant to Sub-Paragraph 13.26.3 of this section shall be construed as an election to terminate this Agreement unless a written notice of such intention be given to Contractor or unless the termination thereof be decreed by a court of competent jurisdiction.

13.27 SEVERABILITY

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.

13.28 SUBLICENSES

- 13.28.1 Contractor shall not, without the prior written consent of the Director and District Engineer, sublicense any portion of the

concession premises, or sublicense any of the operation or activities authorized or required by this Agreement.

- 13.28.2 In the event the County determines that the Contractor has violated the sublicense provision contained herein, the same shall constitute a material breach of contract upon which the County may determine to cancel, terminate, or suspend this Agreement, or assess liquidated damages. The parties agree that it would be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to comply with the sublicense provision. The parties hereby agree that under the current circumstances a reasonable estimate of such damage is One Thousand Dollars (\$1,000.00) and that the Contractor shall be liable to County for liquidated damages in said amount.

13.29 SURRENDER

- 13.29.1 Upon expiration of the term hereof, or cancellation thereof as herein provided, Contractor shall peaceably vacate the concession premises and any and all improvements located thereon and deliver up the same to County in a reasonably good condition, ordinary wear and tear excepted, subject to the right of County to demand removal thereof to the extent that Paragraph 4.6 hereinbefore may be applicable thereto.
- 13.29.2 Upon expiration of the term, Contractor shall execute and deliver to County within thirty (30) days after service of written demand, a good and sufficient quitclaim deed of the Contractor's interest in this Agreement and the premises. Should Contractor fail or refuse to deliver to County a quitclaim deed as aforesaid, a written notice by County reciting the failure of the Contractor to execute and deliver the quitclaim deed shall, after ten (10) days from the date of recordation of the notice, be conclusive evidence against Contractor and all

persons claiming under Contractor, of the termination of this Agreement.

13.30 TAXES AND ASSESSMENTS

13.30.1 The property interest conveyed herein may be subject to real property taxation and/or assessment thereon, and in the event thereof, Contractor shall pay before delinquency all lawful taxes, including but not limited to possessory interest taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

13.30.2 Contractor shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used therein.

13.31 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of Contractor to maintain compliance with the requirements set for in Sub-Section 13.10 "Contractor's Warranty Of Adherence To County's Child Support Compliance Program" shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County Child Support Services Department shall be grounds upon which the county Board of Supervisors may terminate this Agreement pursuant to Sub-Section 13.2 "Cancellation".

13.32 TERMINATION FOR IMPROPER CONSIDERATION

13.32.1 County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the

intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by the Contractor.

- 13.32.2 Contractor shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the Auditor-Controller's Fraud Hotline at (213) 974-0914 or (800) 544-6861 or to such other number as may be provided to Contractor in writing by County
- 13.32.3 Among other items, such improper consideration may take the form of cash, discounts, and service, the provision of travel or entertainment, or tangible gifts.

13.33 TERMINATION FOR INSOLVENCY

- 13.33.1 The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:
- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of Federal Bankruptcy Code;
- 13.33.2 To the extent permitted by law, the County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- a. The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
 - b. The appointment of a Receiver or Trustee for Contractor; or
- 13.33.3 The rights and remedies of County provided in this Subsection 13.33 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

13.34 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

Contractor and each County Lobbyist or County Lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code 2.160. Failure on the part of Contractor or any County Lobbyist or County lobbying firm retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

13.35 TERMINATION UPON TRANSFER OF TITLE OR PARK CLOSURE

- 13.35.1 Notwithstanding any other provision of this Agreement, in the event the County transfers its interest in the Santa Fe Dam Recreation Area and the concession premises to a governmental agency (assignee), the County reserves the right to: terminate this Agreement; or provided there is consent by an assignee, assign the County's interest in this Agreement to said assignee. County shall provide the Contractor with notice of termination or assignment of this Agreement pursuant to this provision.
- 13.35.2 Notwithstanding any other provision of this Agreement, in the event the County closes the Santa Fe Dam Recreation Area, this Agreement shall be terminated upon the effective date of such closure. Upon the effective date of park closure, Contractor shall immediately cease its operations, and within

fifteen (15) days therefrom remove all items of its personal property, equipment, and inventory. County shall provide advance notice to the Contractor of such park closure.

13.36 TRANSFERS

- 13.36.1 Contractor shall not, without written consent of the Director, transfer, assign, sublicense, hypothecate or mortgage this Agreement. Any attempted transfer, assignment, sublicense, hypothecation or mortgage without the written consent of the Director shall be null and void, and shall constitute a material breach of this Agreement.
- 13.36.2 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Contractor shall be binding upon any transferee thereof.
- 13.36.3 The concession shall not be transferable by testamentary disposition or the State laws of interstate succession, as the rights, privileges, and use conferred by this Agreement shall terminate prior to the date for expiration thereof in the event of the death of Contractor occurring within the term herein provided. Additionally, neither this Agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Contractor, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Contractor, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.
- 13.36.4 Shareholders and/or partners of Contractor may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give majority control of Contractor to any persons, corporation, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this

Agreement, the Director's approval thereof shall be required. Consent to any such transfer shall be refused if the Director finds that the transferee is lacking in experience and/or financial ability to conduct the concession.

13.36.5 The prohibition herein contained shall not be applicable with respect to transfers of this Agreement arising from the exercise of a power of sale or judicial foreclosure pursuant to the terms and conditions of a hypothecation or mortgage previously approved by the Director.

13.36.6 In the event Contractor shall request the prior written consent of Director to give, assign, transfer or grant control of this Agreement, and Director gives written consent to the assignment, a transfer fee equal to one percent (1%) of the gross sales price shall be paid to County. Said sum shall be payable to County in full either within thirty (30) days after said consent is given or prior to the close of any escrow, whichever occurs first. Prior to Director's consent to such assignment, the assignor shall first deliver to assignee a written schedule of all sums due and owing to County from the assignor with such schedule in a form subject to the approval of the Director in all respects, and second, shall deliver to Director, as part of the acceptance of the assignment, a written acknowledgment by the assignee that the assignee (a) affirms the sums due and owing to County and (b) accepts responsibility for payment of such sums directly to County. Exempted from said transfer fee shall be the following:

- a. A transfer of an undivided interest in the concession between or among co-workers or affiliated entities which results in a change in method of holding title but does not result in a change to the proportional interests held by the co-owners or affiliated entities prior to the transfer;

- b. An assignment which serves as security for the repayment of a loan from any lender but which does not entitle the assignee to an immediate right to use, occupy, possess or receive the rents or profits from the concession for so long as the assignor makes the required periodic payments and complies with other provisions of the loan;
- c. A transfer of title of the concession to a lender purchaser at the foreclosure sale under a deed of trust on the property or by assignment to the lender or its nominee in lieu of foreclosure;
- d. Such other assignment for which the Director determines that the ownership interests in the concession have remained unchanged, such as a change in the legal or fictitious name of the Contractor without any other change in the equity, in beneficial use of, or legal title to the concession as an asset, or the income produced thereby. The Director's decision in such cases shall be appeal able to the Board of Supervisors within ten (10) days after receipt of written notice of the Director's decision. Any such appeal request shall be accompanied by a Certificate of Deposit filed with the Director in the full amount of the transfer fee; the Certificate of Deposit shall be payable to County, and the interest thereon shall accumulate, but the principal sum and interest shall remain the property of Contractor in the event the Director's decision is reversed.

13.37 WAIVER

- 13.37.1 Any waiver by County of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part

of County to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this Agreement or stopping County from enforcing the full provisions thereof.

- 13.37.2 No delay, failure, or omission of County to re-enter the concession premises or to exercise any right, power, privilege or option, arising from any default, nor any subsequent acceptance of payments then or thereafter accrued shall impair any such right, power, privilege or option, or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right.
- 13.37.3 No notice to Contractor shall be required to restore or revive "time of the essence" after the waiver by County of any default.
- 13.37.4 No option, right, power, remedy or privilege of County shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given County by this Agreement shall be cumulative.

13.38 WARRANTY AGAINST CONTINGENT FEES

- 13.38.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.
- 13.38.2 For breach of this warranty, the County shall have the right to terminate this Agreement and, at its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13.39 ENTIRE AGREEMENT

This document and the Exhibit(s) attached hereto constitute the entire agreement between County and Contractor for the use granted at Santa Fe Dam Recreation Area for the Food, Cycle, Boat and Bait Concession. All other agreements, promises and representations with respect thereto, other than contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, and the Exhibit(s) attached hereto, the terms, conditions, promises and covenants relating to the Food, Cycle, Boat and Bait Concession and the premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions thereof unenforceable, invalid or illegal.

13.40 AUTHORIZATION WARRANTY

Contractor represents and warrants that the signatory to this Agreement is fully authorized to obligate Contractor hereunder and that all corporate acts necessary to the execution of this Agreement have been accomplished.

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IN WITNESS WHEREOF, Contractor has executed this Concession Agreement, or caused it to be duly executed, and County of Los Angeles, by order of its Board of Supervisors, has caused this Concession Agreement to be executed on its behalf by the Chairman of said Board and attested by Executive Officer-Clerk of the Board thereof, the day and year first above written.

CONTRACTOR

By 
Al Stonehouse, President
Wheel Fun Rentals

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors


ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk of
The Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

OFFICE OF THE COUNTY COUNSEL

By 
Helen S. Parker, Principal Deputy

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

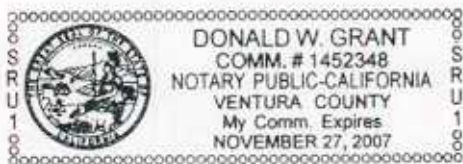
County of VENTURA

On 6.16.04 before me, DONALD W. GRANT
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared AL STONEHOUSE
Name(s) of Signer(s)

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer
 Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

**RIGHT THUMBPRINT
OF SIGNER**
 Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer
 Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

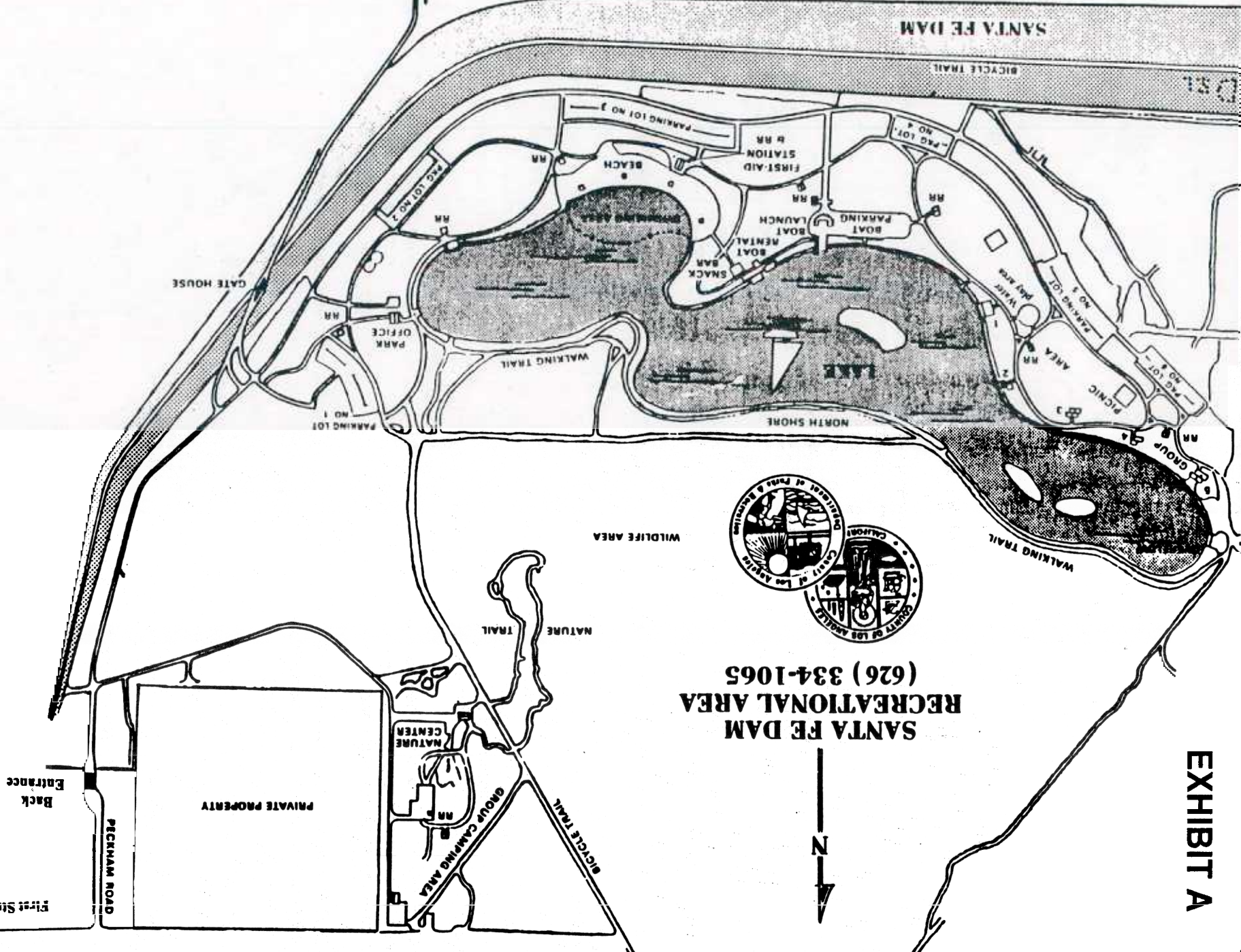
**RIGHT THUMBPRINT
OF SIGNER**
 Top of thumb here

Signer Is Representing: _____

EXHIBITS

EXHIBIT A

SANTA FE DAM
RECREATIONAL AREA
(626) 334-1065



Irwindale Ave

Irwindale Avenue

First Street

Back Entrance

PECKHAM ROAD

PRIVATE PROPERTY

NATURE CENTER

GROUP CAMPING AREA

NATURE TRAIL

WILDLIFE AREA

NORTH SHORE

LAKE

WALKING TRAIL

PARKING LOT NO. 1

PARK OFFICE

GATE HOUSE

PARKING LOT NO. 2

BEACH

FIRST AID STATION

BOAT LAUNCH

BOAT RENTAL

SNACK BAR

SANTA FE DAM

BICYCLE TRAIL

WALKING TRAIL

PICNIC AREA

PARKING LOT NO. 3

PARKING LOT NO. 4

PARKING LOT NO. 5

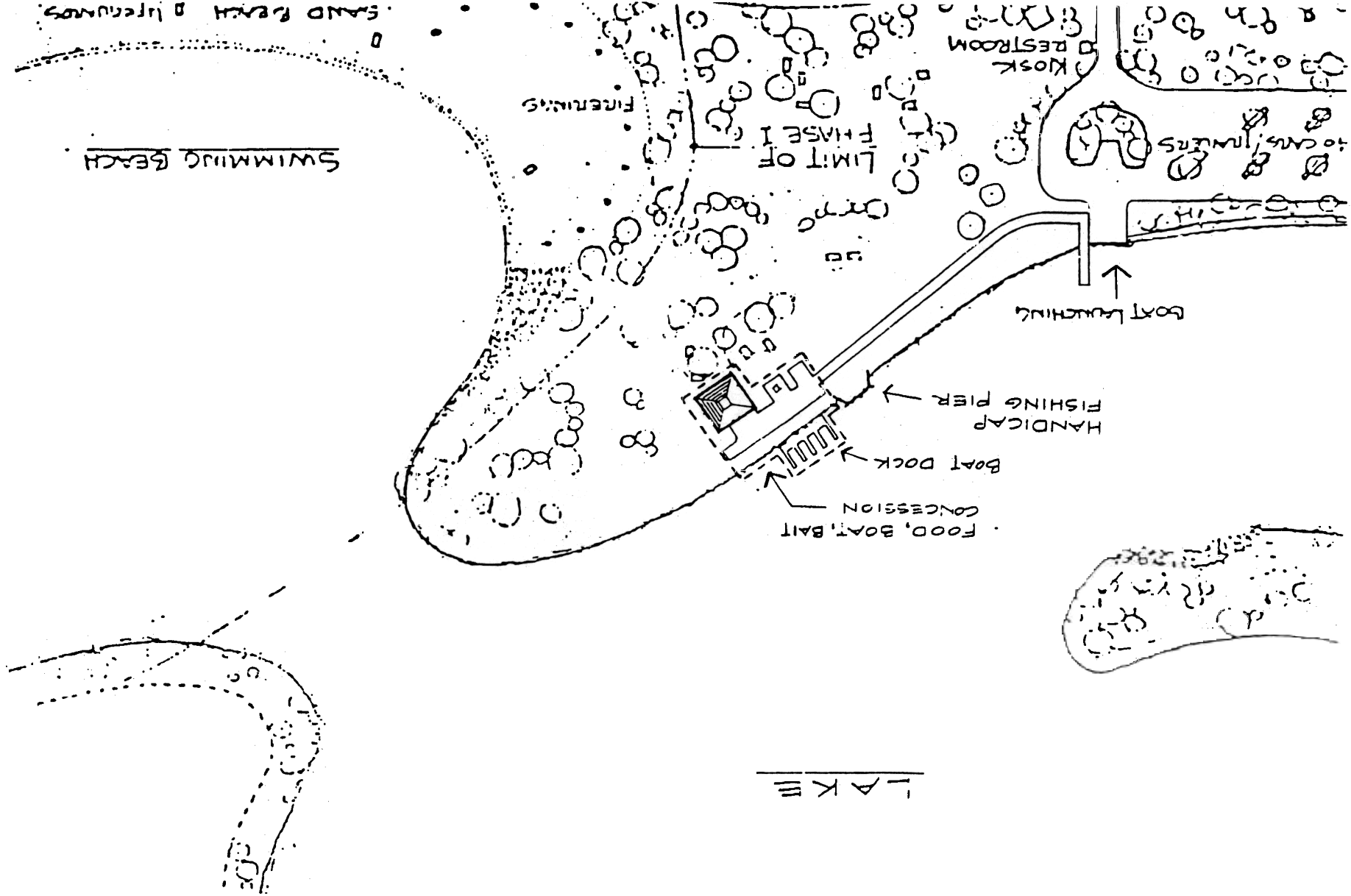


EXHIBIT A

EXHIBIT A - 1

CROWDED DAY CYCLE OPERATIONS

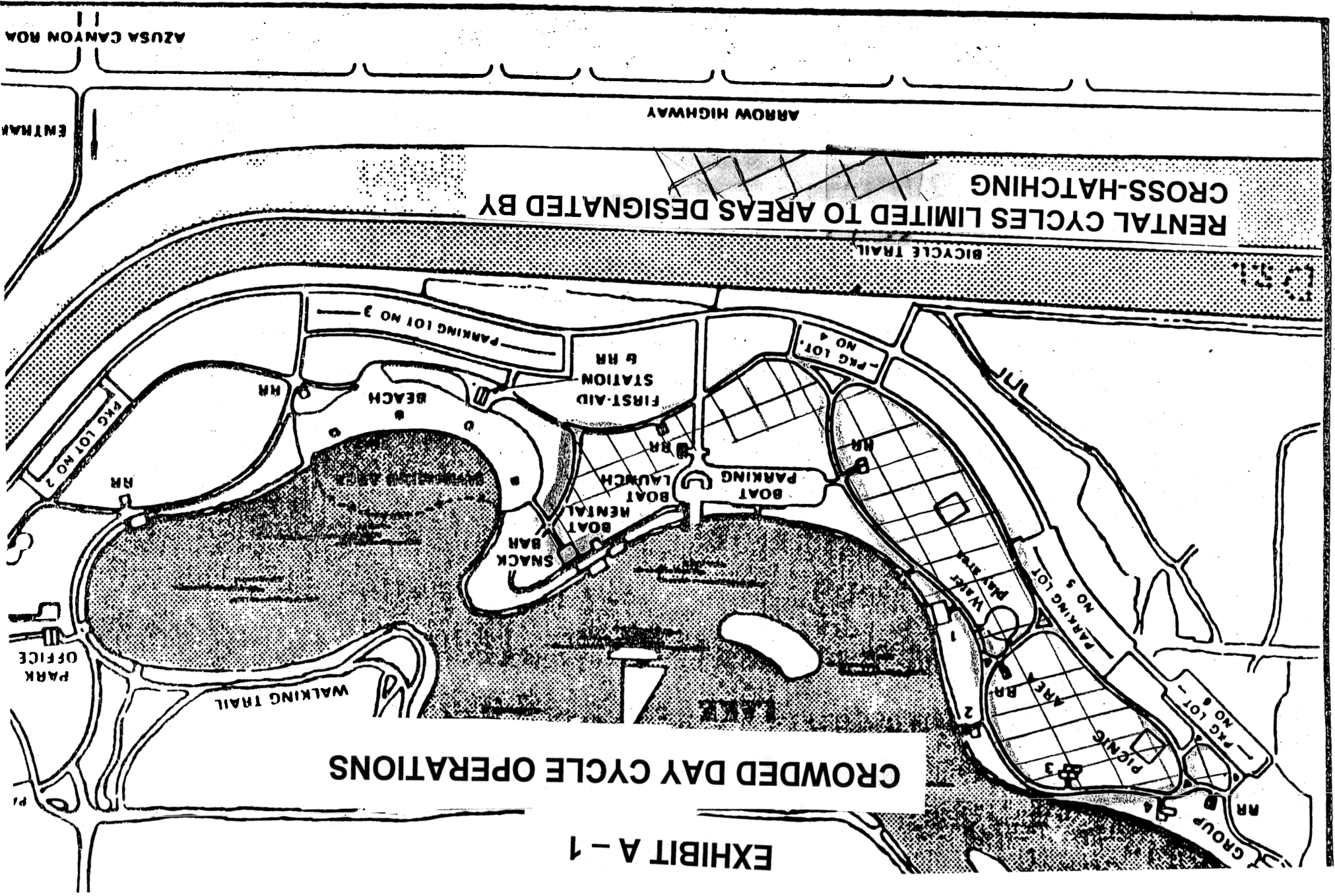


EXHIBIT B



Unique bikes & way more

Safety Program for Crowded Days

Wheel Fun Rentals believes we can operate rental cycles safely on crowded Sundays and holidays at Santa Fe Dam.

On the next few pages we outline the specifics of the steps we will take to assure public safety and compliance. We understand that if incidences occur a review of cycle usage on crowded days will occur.

On these crowded days, we agree to limit unique cycle usage to the area designated on the map we received on April 19, 2004. We further support the suggestion to meet with park management and staff prior to the first busy/restricted day and we will make ourselves available to meet as often thereafter as necessary to effectively support this program.

To further incentivise park guests to honor the restrictions, and to promote park usage on slower days, we will offer a 20% off weekday coupon to all busy/restricted day customers.

We are happy to offer any further information you may require.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Stonehouse". The signature is stylized with a large initial "A" and a long, sweeping horizontal line extending to the right.

Al Stonehouse
President - Wheel Fun Rentals



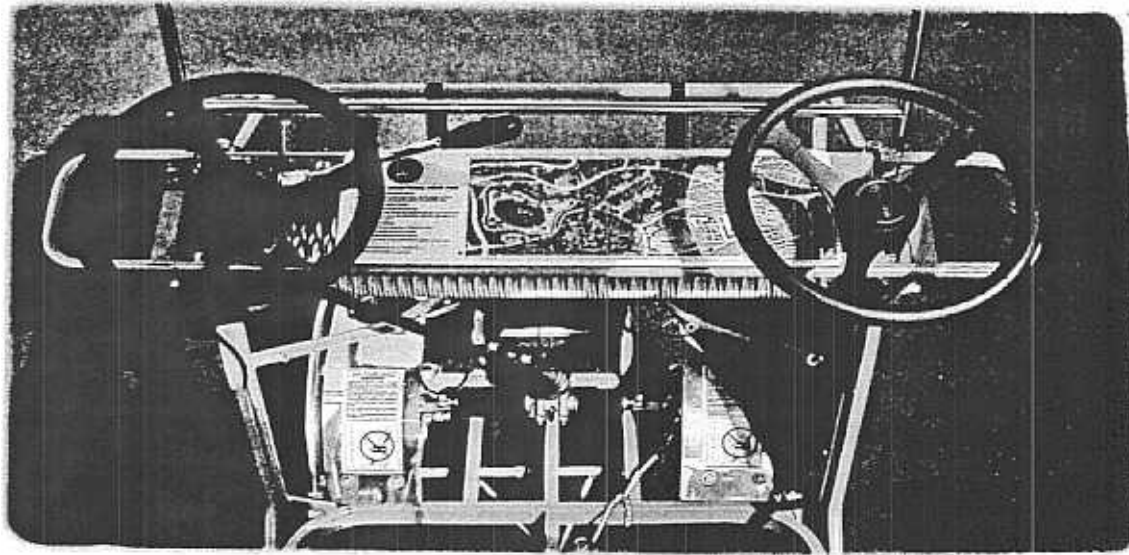
CONCLUSION

Wheel Fun Rentals can operate effectively on busy Sundays and holidays bringing added recreational opportunities without significant disruption to park patrons.

Visitors to Santa Fe Dam Recreational Area can receive the benefits of more diverse recreation, while Los Angeles County Parks & Recreation receives additional revenue and park enhancements and infrastructure.



4526 Telephone Road #202 · Ventura, CA 93003
Phone 805-650-7770 · Fax 805-650-7771
www.wheelfunrentals.com



Instructions on the fleet

Maps and reminders on the fleet explaining where (and where not) to ride, identifying areas that are off limits.

Field controls and oversight

On busy Sundays, Wheel Fun will place a uniformed monitor, riding a beach cruiser bicycle, in the field to assure compliance to rules and restrictions.



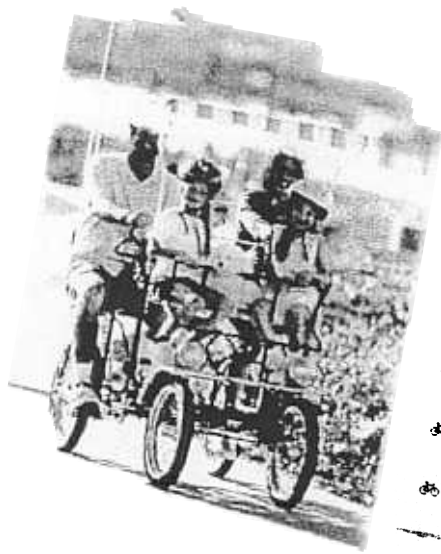
Signage in the field

Wheel Fun will place signage in the field, to further support guest instructions.

Professional Staff Training

- Regular staff training classes assures consistent operations.
- Complete 42 page Training & Reference Manual
- A comprehensive bonus and reward system keeps staff focused and motivated
- Experienced onsite and regional management





Program details

proactive management

- ❖ Rider safety and user information instructions, supported by maps and signage, will be given to each group before departure as part of a comprehensive process.
- ❖ Bilingual staff and documents will communicate restrictions.
- ❖ Dotted yellow line down the center of all "approved" paths
- ❖ Termination of rentals in non-designated areas
- ❖ Multiple passenger vehicles (Surrey & Deuce Coupe) operators must be 16 and over.

For Surrey

SAFETY INSTRUCTIONS

Make certain everyone is on the Surrey, ask if they are "ready for riding instructions" Make sure you have full eye contact!

- The brake lever is located next to the steering wheel (show user). Please use the brake at all times when going down hill. Brakes will become uncomfortable with the brake before beginning your ride.
- For all people in the pedaling position - do avoid getting your feet caught between the pedals and frame - keep your feet on the pedals at all times while going forward or around Surrey and show where not to put feet on top of champagne! Do not rest your feet on any other part of the Surrey.
- For all people in the pedaling position - when pedaling, do place your feet on the ground away from the pedals & wheels, not on frame or champagne! Do a small Surrey and show where not to put feet on top of champagne and push backwards. The pedals rotate backwards and can hit you in the shin or your foot. This is the reason for the safety deal (show everyone the first safety deal).
- Maximum 3 riders per unit, no stunts, no standing & no hanging on the outside.
- Obey all rules of the road, maintain safe speeds and watch for cars & pedestrians.
- Recovered helmets & safety gear.
- Suggest they secure wallet if in back pocket.

Thank you for complying with all safety instructions!

Riding & safety instructions given consistently to each guest

- Supported by signage
- Large display map
- Laminated instruction cards

Rental Guidelines

Rentals One-hour minimum after first hour all rentals are prorated in 15 minute increments.

We do not offer refunds for weather.

Damage Checks Only

Damaged Goods - You will be charged for product damaged during your rental.

Be safe:

- Helmets & other safety equipment offered FREE. We recommend it!
- Anyone under 18 must wear a helmet.
- Ride safely, use common sense, watch for others & obey all traffic laws.
- Please be certain you receive & understand riding instructions prior to renting.

All equipment is subject to inspection by the user of equipment. Riders assume a liability to the rental company for any damage to equipment or for loss of equipment.

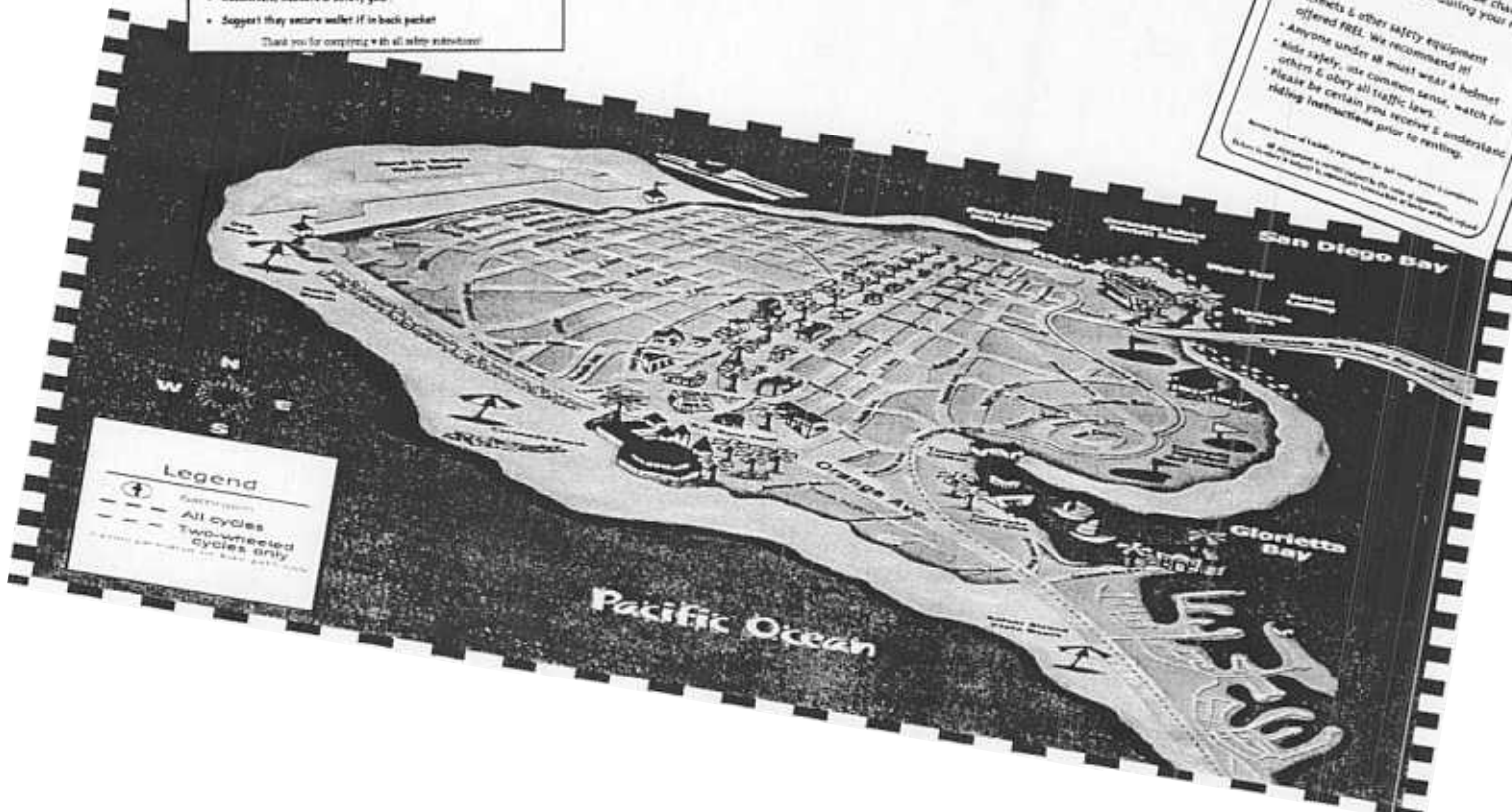


EXHIBIT C

PROPOSER'S EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

Wheel Fun Rentals

Proposer's Name

4526 Telephone Road, #202 Ventura, CA 93003

Business Address

77-0529176

Internal Revenue Service Employer Identification Number

GENERAL

In accordance with *Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000e through 2000e-17, Section 504 of the Rehabilitation Act of 1975, the Food Stamp Act of 1977, the Welfare and Institutions Code Section 1000, Americans with Disability Act of 1990, California Department of Social Services Manual of Policies and Procedures Division 21, the Contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, creed, color, national origin, political affiliation, marital status, age, disability, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.*

PROPOSER'S CERTIFICATION

Check One

1. The Proposer has a written policy statement prohibiting discrimination in all phases of employment. [x] Yes [] No
2. The Proposer periodically conducts a self analysis or utilization analysis of its work force. [x] Yes [] No
3. The Proposer has a system for determining if its employment practices are discriminatory against protected groups. [x] Yes [] No
4. Where problem areas are identified in employment practices, the Proposer has a system for taking reasonable corrective action which includes the establishment of goals and timetables. [x] Yes [] No

Name (please print or type) Al Stonehouse

Title of Signer (please print or type) President

Signature  Date 12/18/03

EXHIBIT D

Title 2 Administration

Chapter 2.202 Determinations of Contractor Non-Responsibility And Contractor Debarment

2.202.010 Findings and Declarations.

The Board of Supervisors finds that, in order to promote integrity in the County's contracting processes and to protect the public interest, the County's policy shall be to conduct business only with responsible contractors. Determinations of contractor non-responsibility and contractor debarment shall be made in accordance with the procedures set forth in the ordinance codified in this chapter and implementation instructions issued the Auditor-Controller. (Ordinance 2000-0011 § 1 (part), 2000.)

2.202.020 Definitions.

For the purposes of this chapter, the following definitions apply:

A. "Contractor" means a person, partnership, corporation or other entity who has contracted with, or is seeking to contract with, the County to provide goods to, or perform services for or on behalf of, the County. A contractor includes a contractor, subcontractor, vendor, or any person or entity who or which owns an interest of 10 percent or more in a contractor, subcontractor or vendor.

B. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the County.

C. "Debarment" means an action taken by the County which results in a contractor being prohibited from bidding upon, being awarded, and/or performing work on a contract with the County for a period of up to three years. A contractor who has been determined by the County to be subject to such a prohibition is "debarred".

D. "Department head" means either the head of a department responsible for administering a particular contract for the County or the designee of same.

E. "County" means the County of Los Angeles, any public entities for which the Board of Supervisors is the governing body, nonprofit corporations created by the County and any joint powers authorities that have adopted County contracting procedures.

F. "Contractor hearing board" means the persons designated to preside over contractor debarment hearings and make recommendations on debarment to the Board of Supervisors. (Ordinance 2000-0011 § 1 (part), 2000.)

2.202.030 Determination of Contractor Non-Responsibility

A. Prior to a contract being awarded by the County, the County may determine that a party submitting a bid or proposal is non-responsible for the purposes of that contract. In the event that the County determines that a bidder/proposer is non-responsible for a particular contract, said bidder/proposer shall be ineligible for the award of that contract.

B. The County may declare a contractor to be non-responsible for the purposes of a particular contract if the County, in its discretion, finds that the contractor has done any of the following: (1) committed any act or omission which negatively reflects on the contractor's quality, fitness, or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same; (2) committed an act or omission which indicates a lack of business integrity or

Title 2 Administration
Chapter 2.202 Determinations of Contractor Non-Responsibility
And Contractor Debarment

business honesty; or (3) made or submitted a false claim against the County or any other public entity.

C. Before making a determination of non-responsibility pursuant to this chapter, the department head shall give written notice to the contractor of the basis for the proposed non-responsibility determination, and shall advise the contractor that a non-responsibility hearing will be scheduled on a date certain. Thereafter, the department head shall conduct a hearing where evidence on the proposed non-responsibility determination is presented. The contractor and/or attorney or other authorized representative of the contractor shall be afforded an opportunity to appear at the non-responsibility hearing and to submit documentary evidence, present witnesses and offer rebuttal evidence. After such hearing, the department head shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be found non-responsible with respect to the contract(s) at issue. A record of the hearing, the proposed decision and any recommendation shall be presented to the Board of Supervisors. The Board of Supervisors may, in its discretion, limit any further hearing to the presentation of evidence not previously presented. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the department head. A non-responsibility finding shall become final upon approval by the Board of Supervisors.

D. The decision by the County to find a contractor non-responsible for a particular contract is within the discretion of the County. The seriousness and extent of the contractor's acts, omissions, patterns or practices as well as any relevant mitigating factors may be considered by the County in determining whether a contractor should be deemed non-responsible. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.040 Debarment of Contractors.

A. The County may debar a contractor who has an existing contract with the County and/or a contractor who has submitted a bid or proposal for a new contract with the County.

B. The County may debar a contractor if the County finds, in its discretion, that the contractor has done any of the following: (1) violated any term of a contract with the County; (2) committed any act or omission which negatively reflects on the contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.

C. Before making a debarment determination pursuant to this chapter, the department head shall give written notice to the contractor of the basis for the proposed debarment, and shall advise the contractor that a debarment hearing will be scheduled on a date certain. The contractor hearing board shall conduct a hearing where evidence on the proposed debarment is presented. The contractor and/or attorney or other authorized representative must be given an opportunity to appear at the debarment hearing and to submit documentary evidence, present witnesses, and offer

Title 2 Administration
Chapter 2.202 Determinations of Contractor Non-Responsibility
And Contractor Debarment

rebuttal evidence at that hearing. After such hearing, the contractor hearing board shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred and, if so, the appropriate length of time for the debarment. A record of the hearing, the proposed decision and any recommendation shall be presented to the Board of Supervisors. The Board of Supervisors may, at its discretion, limit any further hearing to the presentation of evidence not previously presented. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the contractor hearing board. A debarment finding shall become final upon approval of the Board of Supervisors.

D. The decision by the County to debar a contractor is within the discretion of the County. The seriousness and extent of the contractor's acts, omissions, patterns or practices as well as any relevant mitigating factors may be considered by the County in making any debarment decision. Upon a debarment finding by the Board of Supervisors, the County shall have the right, in its discretion, to determine the length that the contractor may be prohibited from bidding upon and being awarded a new contract with the County, which period may not exceed three years. In addition, upon a debarment finding by the Board of Supervisors, the County may, at its discretion, terminate any or all existing contracts the contractor may have with the County. In the event that any existing contract is terminated by the County, the County shall maintain the right to pursue all other rights and remedies provided by the contract and/or applicable law. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.250 Pre-Emption.

In the event any contract is subject to Federal and/or State laws that are inconsistent with the terms of the Ordinance codified in this chapter, such laws shall control. (Ord. 2000-0011 § 1 (part), 2000.)

2.202.060 Severability

If any section, subsection, subpart or provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this chapter and the application of such to other persons or circumstances shall not be affected thereby. (Ord. 2000-0011 § 1 (part), 2000.)

EXHIBIT E



Department of the Treasury
Internal Revenue Service

Notice 1015

(Rev. November 2002)

Have You Told Your Employees About the Earned Income Credit (EIC)?

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

A change to note. Workers **cannot** claim the EIC if their 2002 investment income (such as interest and dividends) is over \$2,550.

Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whom you did not withhold income tax. However, you do not have to notify any employee who claimed exemption from withholding on **Form W-4**, Employee's Withholding Allowance Certificate.

Note: *You are encouraged to notify each employee whose wages for 2002 are less than \$34,178 that he or she may be eligible for the EIC.*

How and When Must I Notify My Employees?

You must give the employee one of the following:

- The **IRS Form W-2**, Wage and Tax Statement, which has the required information about the EIC on the back of **Copy B**.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on Copy B of the IRS Form W-2.
- **Notice 797**, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

If you are required to give Form W-2 and do so on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy. If a substitute Form W-2 is given on time but does not have the required information, you must notify the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2003.

You must hand the notice directly to the employee or send it by First-Class Mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can get copies of the notice by calling 1-800-829-3676, or from the IRS Web Site at www.irs.gov.

How Will My Employees Know If They Can Claim the EIC?

The basic requirements are covered in Notice 797. For more detailed information, the employee needs to see the 2002 instructions for Form 1040, 1040A, 1040EZ, or Pub. 596, Earned Income Credit (EIC).

How Do My Employees Claim the EIC?

Eligible employees claim the EIC on their 2002 tax return. Even employees who have no tax withheld from their pay or owe no tax can claim the EIC and get a refund, but they must file a tax return to do so. For example, if an employee has no tax withheld in 2002 and owes no tax but is eligible for a credit of \$791, he or she must file a 2002 tax return to get the \$791 refund.

How Do My Employees Get Advance EIC Payments?

Eligible employees who expect to have a qualifying child for 2003 can get part of the credit with their pay during the year by giving you a completed **Form W-5**, Earned Income Credit Advance Payment Certificate. You **must** include advance EIC payments with wages paid to these employees, but the payments are not wages and are not subject to payroll taxes. Generally, the payments are made from withheld income, social security, and Medicare taxes. For details, see **Pub. 15**, Employer's Tax Guide.

Notice 1015

(Rev. 11-2002)



EXHIBIT F

Certainly we would prefer that women seek help while they are pregnant, not after giving birth, to receive proper medical care and counseling. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in a hospital emergency room.

The California Safely Surrendered Baby Law:

Allows a distressed birth parent(s) to legally, confidentially, and safely surrender their baby

Provides a safe place for babies

Protects the parent(s) from arrest or prosecution for abandonment as long as the baby has not been abused or neglected

Does not require that names be given when the baby is surrendered

Permits parents to bring a baby within 3 days of birth to any hospital emergency room in California

**In California, no one ever
has to abandon a child again.**



State of California
Gray Davis, Governor
Health and Human Services Agency
Grantland Johnson, Secretary
Department of Social Services
Rita Saenz, Director

101-400 (8-97)

**no shame.
no blame.
no names.**

**now there's a way
to safely surrender
your baby**



What is the Safely Surrendered Baby Law?

It's a new law. Under this law, a person may surrender their baby confidentially. As long as the baby has not been abused or neglected, the person may do so without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for an infant can legally, confidentially and safely surrender their baby within 3 days of birth. All that is required is that the baby be brought to a hospital emergency room in California. If there are additional places, they will be listed on the back of this brochure. As long as the child shows no signs of abuse or neglect, no name or other information is required. A bracelet will be placed on the baby for identification. A matching bracelet will be given to the parent. The bracelet will help connect the parent to the baby if the parent wants the baby back.

Can only a parent bring in the baby?

In most cases, a parent will bring in the baby. The law allows another person to bring in the baby if they have legal custody.

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week.

Is there anything else I need to do?

No. Nothing is required. However, hospital personnel will give the parent a medical information questionnaire that is designed to gather family medical history. This could be very useful in caring for the child but it is up to the parent to complete it.

What happens to the baby?

The baby will be examined and given medical treatment if needed. Then the baby will be placed in a foster or pre-adoptive home.

Once the parent(s) has safely turned over the baby, they are free to go.

What if a parent wants the baby back?

The parent(s) may take the bracelet back to the hospital. Hospital personnel will provide information about the baby.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being hurt or killed because they were abandoned.

You may have heard tragic stories of babies left in dumpsters or public toilets. The persons who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants.

Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

id Baby

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law.

This baby was the eighteenth child protected under California's Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed in a foster home for short-term care while the adoption process was started.

a heart
consider

Los Angeles County
Safely
Surrendered
Baby
Hotline



(877)BABY SAFE

Toll Free (877) 222-9723

Call for Information on How
to Safely Surrender a
Newborn Infant Under the
Safely Surrendered Baby Law
Referrals Provided to
Designated Safe Haven Sites
Referrals Provided to Other
Support Services

- **Guaranteed Confidentiality**
- **7 Days a Week**
- **24 Hours a Day**
- **English and Spanish and 140 Other Languages Spoken**



INFO LINE of Los Angeles has been in business since 1981.
INFO LINE of Los Angeles is an AIRS accredited agency.

Calls from the media should be directed to Thelma Bell or Michele Yoder at (626) 350-1841.